



## **POST BOARD ACTION AGENDA**

**Meeting of the Cook County Board of Commissioners**

**County Board Room, County Building**

**Wednesday, November 19, 2008 10:00 A.M.**

### **ATTENDANCE**

**Present:** President Stroger and Commissioners Beavers, Butler, Claypool, Collins, Daley, Goslin, Maldonado, Moreno, Murphy, Peraica, Quigley, Schneider, Silvestri, Sims, Steele and Suffredin (16)

**Absent:** Commissioner Gorman (1)

(Matters referred to Committee are available from the Secretary to the Board of Commissioners)

**POST BOARD ACTION AGENDA**

**Meeting of the Cook County Board of Commissioners  
County Board Room, County Building  
Wednesday, November 19, 2008, 10:00 A.M.  
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**PRESIDENT**

**AGREEMENT**

**ITEM #1**

<b>APPROVED</b>
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Transmitting a Communication, dated November 7, 2008 from

TODD H. STROGER, President, Cook County Board of Commissioners

I transmit herewith the annual request of the Chicago Transit Authority for a contribution of \$2,000,000.00, pursuant to law, to the Chicago Transit Authority from the County of Cook.

**RESOLUTIONS**

**ITEM #2**

<b>APPROVED AS AMENDED</b>
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Submitting a Proposed Resolution sponsored by

TODD H. STROGER, PRESIDENT, JOHN P. DALEY, MIKE QUIGLEY,  
WILLIAM M. BEAVERS, JERRY BUTLER, FORREST CLAYPOOL, EARLEAN COLLINS,  
ELIZABETH “LIZ” DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO,  
JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA,  
TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS,  
ROBERT B. STEELE and LARRY SUFFREDIN, County Commissioners

**RESOLUTION**

**WHEREAS**, in accordance with Chapter 2, Article III, Division 2, Section 2-108(a)(1), the Cook County Board of Commissioners shall hold regular meetings pursuant to an annual calendar adopted by resolution of the Board; and

**WHEREAS**, in accordance with Section 2.02 of the Illinois Open Meetings Act, every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times and places of such meetings.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF COOK COUNTY, ILLINOIS:**

1. That the Board of Commissioners of Cook County shall hold its regular meetings and regular meetings of the Finance, Zoning and Building, and Roads and Bridges Committees of the Board on the following dates during 2009:

- |   |                               |
|---|-------------------------------|
| Tuesday, January 6 <del>13</del> , 2009 | Tuesday, June 16, 2009        |
| <del>Thursday, January 22, 2009</del>   | Tuesday, July 7, 2009         |
| Wednesday, February 4, 2009             | Tuesday, July 21, 2009        |
| Wednesday, February 18, 2009            | Tuesday, September 1, 2009    |
| Wednesday, March 4, 2009                | Wednesday, September 16, 2009 |
| Tuesday, March 17, 2009                 | Tuesday, October 6, 2009      |
| Wednesday, April 1, 2009                | Tuesday, October 20, 2009     |
| Wednesday, April 15, 2009               | Wednesday, November 4, 2009   |
| Tuesday, May 5, 2009                    | Wednesday, November 18, 2009  |
| Tuesday, May 19, 2009                   | Tuesday, December 1, 2009     |
| Tuesday, June 2, 2009                   | Tuesday, December 15, 2009    |

2. That the time for holding the above specified meetings is 10:00 o’clock a.m., local time and the place is the County Board Room, Room 569, 118 North Clark Street, Chicago, Illinois 60602.

COMMISSIONERS

TRANSFER OF FUNDS

ITEM #3

APPROVED

Transmitting a Communication, dated November 12, 2008 from

FORREST CLAYPOOL, County Commissioner

I hereby request to transfer \$10,391.00 from (018-350 Account) Office Supplies and \$1,062.00 from (018-429 Account) Utilities to the (018-289 Account) Technical Services for the Cook County Board of Commissioners.

MEMORANDUM

ITEM #4

RECEIVED & FILED

The following item was deferred at the November 5, 2008 Board Meeting:

Transmitting a Communication, dated November 5, 2008 from

ELIZABETH “LIZ” DOODY GORMAN, County Commissioner

Item 20 on the Cook County Board Agenda of November 5, 2008 is information supplied by Betty Hancock Perry, Director of the Office of Contract Compliance regarding Contract No. 07-53-562. There are a number of inaccuracies in this document which I would like to address. Please review the following:

Utilization Plan

Madison indicated the bid they submitted did not meet the “Specified Goals,” however, a note was included at the bottom of the Utilization Plan which stated, “see good faith efforts, we will continue to try to meet the goals.” This response was not sufficient for this bid to be deemed responsive. The compliance section of the bid document defines good faith efforts for the respondents must be exercised prior to the bid submission, and supporting documentation must be included which validates the respondents actions taken for them to be deemed responsive.

See attached page PE-6 from the bidder bid which clearly indicates that the good faith efforts will be followed. The bidder did exercise good faith efforts prior to bid submission however a statement was added that the bidder would continue to try to achieve the goals even though the good faith option was exercised.

Madison’s Utilization Plan indicated the direct participation of ERA Valdivia (“Valdivia”) as an MBE participant with the dollar amount of participation listed as \$200,000.00 (7%) of the bid amount. Additionally, while the MBE/WBE Utilization Plan states that the Letter(s) of Certification must be attached to the bid, the Letter of Certification for Valdivia was not attached to the bid and was later faxed to this office and received on August 21, 2008.

The bidder clearly executed the good faith efforts clause of the contract which does not require letters of certification. After several calls to the compliance department by the bidder, the bidder was requested to supply the letter on August 20, 2008. The bidder supplied the letter within 24 hours of the request.

This was the only vendor listed on the Utilization Plan submitted by Madison, and no where in the documentation did they request a reduction of MBE participation, which stated reasons as to why they were unable to meet the full 24% goals.

Please see the bidders bid form page PE-6 with the appropriate box checked indicating the bidder was utilizing good faith efforts. Also see the bidders documents PE-6b checklist for MBE/WBE Good Faith Efforts. Also see bidders document PE-6c checklist for good faith efforts. There is no portion of the bid application that allows the bidder to state a reason to why they were unable to meet the goals.

## **COMMISSIONERS continued**

### **MEMORANDUM continued**

#### **ITEM #4 cont'd**

Another area of deficiency in the Utilization Plan was surrounding the work to be performed by the MBE. The description of work from Valdivia was listed as "Carpentry, Demolition." The bid document states "A bidder may count only the participation of MBEs and WBEs for the scopes of the work which they are certified on or before the date of the submission." The Certification Letter from the City of Chicago listed Valdivia as certified in the following areas:

"Painting, Drywall and Sandblasting Contractor; Terrazzo, Tile Resin and Vinyl Flooring; Waterproof Membrane Systems Installation; locker Installation."

Contract Compliance considers drywall installation as a form of carpentry work and accepted this vendor for the provision of the service however they were not certified to provide demolition services which meant that Madison would not have received MBE credit for these services and thus not meet the 7% participation as stated in the submitted Utilization Plan. Additionally, there were no other Minority/Woman Owned Business Enterprises listed on the Utilization Plan.

Please see the bidder's letter of intent between the prime contractor and ERA Valdivia. The letter lists demolition, Drywall, ceilings and painting. The project contains what is commonly called "demolition" this is removal of existing drywall and drywall studwall commonly called "carpentry." This work is routinely performed by ERA Valdivia, and covered by ERA Valdivia's Letter. This is the exact same work that was found to be acceptable by compliance for the bidder that was \$161,000 higher than Madison Construction.

Overall the Utilization Plan did not sufficiently meet the MBE/WBE goals of Cook County Government and did not show proof that Madison exercised good faith efforts to meet the stated goals.

The bidder did exercise its good faith efforts to meet the MBE/WBE goals; however because of the type of work requested the bidder was unable to meet the goals. The bidder submitted the proper documentation and when Cook County requested further information responded expeditiously.

#### **Letter of Intent**

The Letter of Intent between the Prime Contractor (Madison) and the MBE/WBE subcontractor supplier (Valdivia) was submitted blank. The General Conditions, Section GC-52, Section II – Required Pre-Award Submittals reads as follows:

"To be responsive, A bidder shall either (1) meet the project specific MBE and WBE goals by submitting with the bid a Utilization Plan, supported by Letters(s) of Intent and Letter(s) of Certification...Failure to submit the documents in accordance with these requirements will cause the bid to be considered non-responsive and shall be cause for the bid to be rejected."

The paraphrasing of this portion of the document completely excludes the second avenue a bidder can utilize to be considered compliant. The portion of the statement that is left out includes:  
Or (2) if the bidder cannot achieve the project specific MBE and/or WBE goals, by submitting with the bid documentation its Good Faith Efforts to meet the project specific MBE and or WBE Goals.

This was the avenue in which the bidder utilized to be considered compliant. By utilizing this submittal process, it is impossible to submit a Letter of Intent or Utilization Plan because these documents are to be filled out to identify compliance with the MBE/WBE compliance. A bidder would be falsely representing their intention if submitting this documentation while conforming to the Good Faith Efforts process.

## **COMMISSIONERS continued**

### **MEMORANDUM continued**

#### **ITEM #4 cont'd**

##### **Good Faith Efforts Checklist**

Included in all Bid Packages is a Good Faith Efforts Checklist which is used as a guide for bidders to ensure that they have complied with all areas of the M/WBE compliance portion of the bid. Madison checked all items on the Good Faith Efforts Checklist and indicated for item number five (5) ("made efforts to assist interested MBEs and WBEs in obtaining bonding, lines of credit, or insurance as may be required for performance of the contract"), while it was checked as a good faith effort; it was "not applicable. "

The bidder identified that it was "not applicable." There is no basis for this grievance.

The Good Faith Efforts Contacts Log was submitted with the bid. However, Madison did not, at the time of the bid opening, provide any documentation supporting the purported contacts made in an effort to meet the M/WBE.

According to the bid instructions there is no requirement to provide any additional documentation indicating the efforts to reach out to MBE/WBE companies.

- **City Lights:** Work solicited was for Electrical. The reason stated in the document as to why agreement was not reached was indicated as "not enough time to bid project." The date of contact was listed on the document as July 7, 2008.
- **Kingdom Community** Work solicited was for Carpentry and Demolition. The reason stated in the document as to why agreement was not reached was indicated as "not enough time to bid project." The date of contact was listed on the document as July 7, 2008.
- **S Mechanic:** Work solicited was for HV AC. The reason stated in the document as to why agreement was not reached was indicated as "not interested." The date of contact listed on the document was July 7, 2008.

The Office of Contract Compliance contacted the subcontractors listed on the Contact Log to verify the reasons included in the document and the following was noted:

Juan Candelaria of City Lights stated they were contacted too late to provide a bid. They were given two (2) days notice.

John Abercrombie of Kingdom Community did not return calls to the Office of Contract Compliance.

S Mechanic's telephone was disconnected. As of today's date the telephone number listed on the contact log remains disconnected.

Juan Candelaria was contacted in the required 10 days prior to the bid due date.

John Abercrombie is a pastor of Kingdom Community church and his construction company goes by the same name. He had an extensive conversation with compliance exceeding thirty minutes on September 2, 2008.

S Mechanichals number was disconnected.

Note: While there were three (3) vendors listed as "Good Faith" there are forty seven (47) vendors listed in the County's directory in the area of construction.

The General Conditions Section GC - 52, Section II, bidder must notify MBEs and WBEs of subcontracting opportunities at least ten (10) business days before submission of the bid. The MBEs listed on this bid were notified eight (8) business days prior to bid opening, not ten (10) as stated in their letters (exhibit 2).

## **COMMISSIONERS continued**

### **MEMORANDUM continued**

#### **ITEM #4 cont'd**

On August 21, 2008, the Office of Contract Compliance received via fax, the signed Letter of Intent between Madison Construction and ERA Valdivia signed and notarized on July 15, 2008. This document which is to be included at the time of bid opening was received thirty four (34) days after the bid opening. (see submitted letter)

By utilizing the Good Faith Efforts submittal process, according to the bid instructions, it is not necessary to submit a Letter of Intent or Utilization Plan because these documents are to be provided when attempting to represent compliance with the MBE/WBE goals. An issue is made here that information was submitted 34 days after the bid was presented. Why then did Contract Compliance request this information on the 33rd day.

The Office of Contract Compliance's procedure is not to communicate with bidders our findings until the Board has voted on the bid. The Office of Contract Compliance may determine a bidder is non-responsive, however; the Board of Commissioners have the authority to override this recommendation. Upon award of a contract, we will provide any bidder with reasons as to why their bid was non responsive.

The bid documentation states that "If a Utilization Plan is denied because the Good Faith Efforts requirements have not been met, the County shall inform the bidder in writing for the basis for the denial. To protest such a decision, the bidder shall follow the purchasing protest process described in Cook County's Purchasing office Solicitation instructions."

On September 12, 2008, the Office of Contract Compliance having completed the analysis and investigation of the bid and all documentation received for Contract No. 07-53-562, sent a letter to the Purchasing Agent indicating Madison Construction as being non-responsive.

Shortly thereafter, on September 17, 2008, the Compliance Officer received a telephone call from Martin McCarthy, Director of Performance Contracting, Madison Construction, requesting a reason as to why they had been found non-responsive. When Mr. McCarthy was not satisfied with the answer he received, he proceeded to call the Compliance Administrator, requesting a written explanation as to why their bid was non-responsive.

The explanation given to Mr. McCarthy was that this Office does not provide a letter to bidders until such time as a recommendation has been voted upon by the Board of Commissioners.

On September 19, 2008, the Office of Contract Compliance received a letter from Mr. McCarthy of Madison Construction indicating they were now willing to meet or exceed the MBE/WBE participation goals. This communication was received after the bid opening, therefore, it could not be considered at that time. (see submitted letter)

This statement attempts to misrepresent the intention of Mr. McCarthy's statement. The bidder was unable to provide the goals at the time of the bid. This is a fact that the bidder did not attempt to keep undisclosed. The bid suggested that they attempted to meet the goals through good faith efforts. Mr. McCarthy's letter indicated that the bidder will continue to attempt to meet or exceeded the MBE/WBE goals.

On September 22, 2008, Commissioner Gorman's Administrative Assistant telephoned our office to speak to the Administrator regarding the Madison file. She was told the Administrator was away from the office.

A staff member from Ms. Hancock-Perry's office called back that day, Monday, and stated that Ms. Hancock-Perry was well aware of this bid but would be unavailable to speak with me until Thursday, September 25, 2008

## **COMMISSIONERS continued**

### **MEMORANDUM continued**

#### **ITEM #4 cont'd**

As a result of the call from the Commissioner's Office, Staff of the Office of Contract Compliance telephoned the Administrator about the request for information on Madison Construction and was directed to take the file and review it with Commissioner Gorman. When they arrived at Commissioner's office, they were told she was not in. My staff however, reviewed the information in the file with Commissioner Gorman's staff.

On September 25, 2008, the Administrator telephoned Commissioner Gorman and asked if she had received the information the staff shared with her staff and whether or not the explanation answered her concerns. She stated she had received the information; however, she was not satisfied with the explanation.

No, I wasn't satisfied with the information as the answers changed almost on an hourly basis. For example, Ms. Hancock-Perry told me during one conversation that a bidder could protest being found non-responsive on the Contract Compliance website. I looked at that website and could not find anywhere to level such a protest. Also note that no bid recommendations were presented to the County Board for approval at the October 1, 2008 board meeting.

On October 15, 2008 at the Cook County Board Meeting, Commissioner Butler provided the Administrator with a copy of the letter Commissioner Gorman distributed to the County Board Members. The Administrator had no knowledge of the document prior to Commissioner Butler sharing it.

After reviewing the letter submitted by Madison, it should be noted that attachment Exhibits 1 and 2 which denotes the MBE bidders solicited and supporting letters documenting their good faith efforts, were received after the bid opening. Please note that they are dated September 24, 2008, well after the July 17, 2008 bid opening date. These documents were not a part of the bid as required by GC-52, II paragraph one. We do not concur with Madison's assertion that the Office of Contract Compliance did not confirm Madison's good faith efforts. As noted above, we made every attempt to do so with the information that was provided to us at the time of bid submission.

The letters supplied by the bidder to Commissioner Gorman were not intended to be submittals for the Bid as the above paragraph attempts to assert, however were provided to acknowledge the bidders continuing participation and support for MBE/WBE Companies.

Further, it should be noted that Contract Compliance did not state that Valdivia was not certified to do the work in the bid package. Our finding was and it was stated, "Valdivia was not certified in the area of Demolition" as listed on the Utilization Plan, and later listed on the Letter of Intent received thirty-four (34) days late to this office.

If compliance found "Valdivia not certified in the area of Demolition," why then was it acceptable for the second bidder John Burns Company?

In conclusion, the Office of Contract Compliance followed standard operating procedures as it reviewed the bid response for the "build out of the pharmacy" within the Bureau of Health Services. It is my hope that this chronology answers any questions regarding the decision to deem Madison non-responsive. I would be happy to answer any additional questions that may arise.

The Office of Compliance has consistently made statements that are not consistent with the bid application. The "standard operating procedures" of the Office of Contract Compliance along with the bid material may need be reviewed to determine if the information is consistent. This document acts to refute, yet again, the statements made by the Office of Compliance regarding why Madison Construction's bid was considered non-responsive. Cook County must be losing significant revenue because of such inconsistencies and would have lost \$161,000 if this bid would have been assigned to the second bidder.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT**

**ITEM #5**

**WITHDRAWN**

Submitting a Proposed Ordinance Amendment sponsored by

ELIZABETH “LIZ” DOODY GORMAN, County Commissioner

**PROPOSED ORDINANCE AMENDMENT**

**AN ORDINANCE ELIMINATING THE DEPARTMENT OF CONTRACT COMPLIANCE  
AND HAVING THE OFFICE OF THE PURCHASING AGENT ASSUME  
THE OFFICE OF CONTRACT COMPLIANCES DUTIES AND STAFF**

**BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 2 Administration, Section 2-401, Chapter 34 Finance, Sections 34-151, 34-175 through 34-303, and 34-351 through 34-356, of the Cook County Code is hereby amended as follows:

**DIVISION 3. BUREAU OF FINANCE**

*Subdivision I. In General*

**Sec. 2-401. Bureau established.**

The Bureau of Finance is hereby established. This bureau shall be headed by a Chief Financial Officer and shall consist of the Department of Budget and Management Services, the Purchasing Agent, ~~the Office of Contract Compliance~~, the Office of the Comptroller, the Department of Risk Management and the Cook County Department of Revenue. Each department or office mentioned, respectively, has and shall exercise the powers, duties, responsibilities, functions and authority previously provided for by law or ordinance for those departments or offices unless expressly modified by law or ordinance.

**DIVISION 2. CONTRACT PROCUREMENT**

**Sec. 34-151. Purchase procedures and competitive bidding.**

The purchases of and contracts for supplies, materials, equipment and contractual services and all sales of personal property which has become obsolete or unusable, shall be based on competitive sealed bids in accordance with this section and the additional procedures set forth in Section 34-153, or shall be based on competitive requests for proposals or requests for qualifications as provided in Section 34-152, unless designated as charitable donations pursuant to Subsection 34-153(f). No purchases, orders, or contracts of \$100,000.00 or more shall be made unless authorized by the County Board. All sales of obsolete or unusable material, property, or equipment shall be made to the highest bidder, except as provided for in Section 34-153. Notwithstanding the foregoing, if a governmental agency similar in size or larger than the County has awarded a bid to a vendor for the same or similar supplies, materials, equipment or contractual services as that sought by the County, the Purchasing Agent, in his or her discretion, is authorized to purchase the supplies, materials, equipment or contractual services from that vendor at the awarded bid price without having to issue a bid for the supplies, materials, equipment or contractual services as provided in this section.

(a) *Purchases and Contracts of less than \$100,000.00.* Purchases and contracts for supplies, materials, equipment and contractual services and sales of personal property which has become obsolete or unusable and has a value of less than \$100,000.00, as estimated by the Purchasing Agent, shall be made in accordance with this subsection. Purchases, excluding professional services, having a cost of \$750.00 or less may be made with "petty cash" in the open market. All purchases greater than \$750.00 and less than \$100,000.00 may be made by competitive quotations on the open market without publication in a newspaper as provided below, but whenever practical shall be based on at least three such quotations.

(b) *Purchases and Contracts of \$100,000.00 or more; Authorization to advertise for bids.* The Department shall be responsible for requesting that the Board of Commissioners authorize the advertisement of a competitive bid.



## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(c) *Purchases and Contracts of \$100,000.00 or more; Advertisement for bids.* Upon authorization from the Board of Commissioners, the Purchasing Agent shall publish the advertisement at least once in a secular newspaper of general circulation within Cook County and at least five calendar days before the final date of submitting bids. Purchasing shall also post notification of the competitive bid on the Purchasing Agent's page of Cook County's website, located at [www.cookCountygov/purchasing.com](http://www.cookCountygov/purchasing.com) and on the Purchasing Office bulletin board in accordance with the provisions of Subsection 34-153(a). Such notices shall include a general description of the commodities or contractual services to be purchased or personal property, equipment or other property to be sold and shall state where all blanks and specifications may be obtained and the time and place for the opening of bids. The County Purchasing Agent may also send requests by mail to prospective suppliers.

(d) *Purchases and Contracts of \$100,000.00 or more; Development and approval of specifications and contract terms.* The Department shall provide to the Purchasing Agent draft contract documents which shall include a description of the services or supplies to be procured, any minimum bidder qualifications, a description of the environment within which a successful bidder will be required to perform a site inspection, cost proposal information and any other information requested by the Purchasing Agent in order to prepare and finalize the bid specifications and contract documents. The Purchasing Agent may revise the draft documents prior to finalizing and issuing the contract documents.

(e) *Purchases and Contracts of \$100,000.00 or more; Pre-bid conferences.* The Department shall include the details of any pre-bid conferences in the draft contract documents submitted to the Purchasing Agent. Any changes to the date, time or place of a pre-bid conference must be communicated in writing, not less than five business days prior to originally scheduled Bid Opening, to the Office of the Purchasing Agent. The Purchasing Agent will issue an Addendum to all entities or persons registered as having picked up a Bid Package by the Office of the Purchasing Agent.

(f) *Purchases and Contracts of \$100,000.00 or more; Requests for information, clarifications or exceptions to contract documents.* As provided in the Instructions to Bidders, all requests for information, clarification or exceptions submitted by bidders must be directed in writing only to the Purchasing Agent, not less than five business days prior to the Bid Opening. Upon receipt of such a request, the Purchasing Agent's Office will determine if a response will be provided. If a Using Department or Elected Official receives a written inquiry, it shall be forwarded to the Purchasing Agent immediately. If the Department receives an oral inquiry, the prospective bidder shall be referred to the Instructions to Bidders which require that all inquiries be submitted in writing to the Purchasing Agent.

(g) *Purchases and Contracts of \$100,000.00 or more; Communications with bidders during bid process.* From the time a Bid Package is made available until the recommendation for award of the contract is approved by the Board, all communications from bidders must be directed in writing to the Purchasing Agent. However, bidders may communicate with the County's Office of ~~Contract Compliance~~ the Purchasing Agent relative to the submission of information regarding proposed minority- and women-owned business enterprise participation in the contract. All responses to inquiries regarding the status of a bid evaluation or award shall be provided by the Office of the Purchasing Agent in accordance with approved procedures.

(h) *Purchases and Contracts of \$100,000.00 or more; Communication between bidders.* From the time a Bid Package is made available to bidders until the recommendation for award of the contract is approved by the Board, no bidder shall communicate with another bidder regarding the subject matter of the procurement, with the sole exception of communications a bidder may have with a minority- or women-owned business enterprise to meet requirements of minority- or women-owned business enterprise goals. Such quotations shall not be solicited or provided in a manner that discloses or requires the disclosure of the amount of a prospective bid.

(i) *Purchases and Contracts of \$100,000.00 or more.* Bids to conform to conditions in advertisements.

(1) The County Board will not entertain or consider any bid;

a. Received after the exact time for submission of bids specified in the advertisement for bids, except as may be extended in an Addendum issued to all bidders by the Purchasing Agent;

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- b. Not accompanied by the required certified check, bid deposit, or bid bond;
  - c. Not accompanied by the affidavits, certifications or economic disclosure statements required to be submitted pursuant to this article; or
  - d. Which in any other way fails to fully comply with the terms and conditions as stated in the advertisement for bids.
- (2) No bid may be changed, amended, or supplemented in any way after the exact time for submission of bids specified in the advertisement for bids. Any bidder that cancels, withdraws or modifies its bid after the bid opening will result in the bidder being deemed unqualified and will prohibit said bidder from receiving a County contract for a period of one year from the date of bid opening. No certified check, bid deposit, or bid bond may be accepted after the exact time for submission of bids specified in the advertisement for bids.

(j) *Purchases and Contracts of \$100,000.00 or more; Examination and tallying of bids.* All bids shall be opened and tallied at a time predetermined by the President, who shall appoint a member of the County Board to preside and witness the conduct of the reading and announcing in public of all bids before all who desire to attend. The bids shall then be reported to the County Board at the next meeting after the opening thereof. If it is evident that only one qualified bid has been submitted with respect to a particular contract, no bid envelope is opened and any sealed bid(s) shall be returned to the bidder(s) via certified mail unopened. The Clerk announces this fact and that the Purchasing Agent will thereafter determine whether to reissue the solicitation of competitive bids as a result. If it is determined that an error was made in announcing the bid or there was a failure to read all bids into the record, the Purchasing Agent shall notify the Commissioner who presided over the Bid Opening and the Clerk of the Board of the need to reconvene the Bid Opening to correct the record. As soon as reasonably possible, the Bid Opening is reconvened for the purpose of correcting the record.

(k) *Purchases and Contracts of \$100,000.00 or more; Evaluation of bids.* Immediately after the Bid Opening, a post-bid meeting is scheduled wherein the Department ~~and Contract Compliance~~ reviews bids for technical specifications and minority business enterprise/women business enterprise requirements. Upon notification of a recommended vendor from the Department ~~and Contract Compliance~~, the Office of the Purchasing Agent prepares the pre-award bids report and posts said report on the County's website and on the bulletin board outside the Purchasing Agent's Office. The time intervals required to evaluate bids are not always predictable. Bidders are responsible for monitoring the website or, if they lack web access, for calling the Office of the Purchasing Agent on Mondays after 12:00 noon at (312)603-5370, to determine whether a recommendation for award will be posted during the upcoming week.

(l) *Purchases and Contracts of \$100,000.00 or more; Bid protest procedure.* Any bidder who has reason to believe that the bidder identified in the posted recommendation for award is not entitled to be awarded the contract, or who has a complaint about the bid process, may submit a written bid protest, in writing, directed to the Purchasing Agent. Such protest may be submitted at any time prior to the announcement of the recommended bidder, but no later than three business days after the date upon which the recommendation for award is posted on the County's website and on the Purchasing Agent's bulletin board. The bid protest must state with specificity the basis upon which the bidder believes that the recommendation for award is erroneous, or the basis upon which the bidder believes the bid procedure was unfair, including a statement of how the alleged unfairness prejudiced the protesting bidder. A bidder who could have submitted a request for exception, clarification or information prior to bid opening but failed to do so shall not be entitled to protest a bid on the basis of insufficient information or clarity after the bids have been opened.

(m) *Purchases and Contracts of \$100,000.00 or more; The Purchasing Agent shall decide all bid protests.* When a protest has been submitted, the Purchasing Agent shall defer presentation of a recommendation for award to the Board's Finance Committee until the bid protest has been decided.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

(n) *Purchases and Contracts of \$100,000.00 or more; Contract award and execution.* The final recommendation for award shall be transmitted to the Board, through its Finance Committee, for approval of the recommendation for award and execution of a contract with the approved bidder. The Purchasing Agent shall ensure that all required certifications are executed and all due diligence is performed prior to the request to award and execute the contract.

(o) *Purchases and Contracts of \$100,000.00 or more; Right to reject bids reserved.* The County Board reserves the right to reject any and all bids.

(p) *Purchases and Contracts of \$100,000.00 or more; Local business preference.*

- (1) In this section, the term "local business" means a person authorized to transact business in this State and having a bona fide establishment for transacting business located within the County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, full-time work force within the County, including a foreign corporation duly authorized to transact business in this State and which has a bona fide establishment for transacting business located within the County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, full-time work force within the County.
- (2) The Purchasing Agent shall, in the purchase of all supplies, services and construction by competitive sealed bidding, accept the lowest bid price or lowest evaluated bid price from a responsive or responsible local business, provided that the bid does not exceed the lowest bid price or lowest evaluated bid price from a responsive and responsible non-local business by more than two percent.
- (3) The Purchasing Agent shall be responsible for the implementation and enforcement of this section.

**DIVISION 6. MINORITY-AND WOMEN-OWNED BUSINESS ENTERPRISES**

*Subdivision I. General Provisions*

**Sec. 34-275. Short title.**

This division shall be known and may be cited as the Cook County Minority- and Women-Owned Business Enterprise Ordinance.

**Sec. 34-276. Purpose; policy and findings.**

(a) It is the public policy of the County to ensure the full and equitable participation of minority and female owned businesses in the County's procurement process as both prime and subcontractors.

(b) The County is committed to a policy of preventing discrimination in the award of or participation in County contracts and eliminating arbitrary barriers to full participation in such contracts by all persons, regardless of race, sex, or ethnicity.

(c) Minority and women's businesses have contributed significantly to the economic development of the community, and played a similar role in increasing employment, including that of minorities.

(d) Various Federal, State and local legislative bodies and governmental agencies have adopted affirmative action programs in order to eradicate the practice of racial, ethnic and sexual discrimination in the award of public contracts.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

(e) The County has heretofore adopted a Minority Business Enterprise Ordinance to ensure that minority and women's businesses are provided full and equal opportunity to participate in County contracts.

(f) The Supreme Court of the United States in *City of Richmond v. Croson*, 488 U.S. 469 (1989), has enunciated certain standards which are necessary to maintain effective affirmative action programs in compliance with constitutional requirements.

(g) The County is committed to implementing its affirmative action program in conformance with the United States Supreme Court's decision in *City of Richmond v. Croson*.

(h) In furtherance of this commitment, the Cook County Board directed the County staff and its outside consultants to conduct an investigation into the scope of any discrimination in the award of and participation in County contracts as well as in the metropolitan Chicago economy, the extent to which such discrimination or the effects thereof has denied and continues to deny minority and women's business enterprises equal opportunity to participate in County contracts and to recommend the appropriate affirmative action steps to be taken to eliminate any such discrimination and its continuing effects.

(i) Pursuant to the County Board's direction, the County staff and its outside consultants conducted such an investigation.

(j) The County Board, having reviewed the report of the County's staff and its outside consultants and having conducted public hearings and received the testimony of witnesses, makes the following findings:

- (1) Minority and women's businesses continue to be awarded prime contracts and subcontracts in dollar amounts that are disproportionately lower than the availability of such businesses willing and able to perform County contracts.
- (2) The County's procurement practices in the past have contributed to the above identified underutilization of minority and women's businesses on County contracts.
- (3) Minority and women's businesses continue to be disadvantaged by discriminatory practices in the local construction industry and economy when competing for County contracts and in seeking subcontracting opportunities on such contracts.
- (4) The County was a passive participant in the discriminatory practices of businesses which discriminate against minority and women's businesses by entering into contracts with such businesses.
- (5) Despite its good faith efforts and implementation of previous affirmative action programs, minority and women's businesses remain at a competitive disadvantage in competing for County contracts and subcontracts.
- (6) Race and gender neutral measures or affirmative action programs without numerical goals have not and are not likely to eliminate the competitive disadvantage of minority and women's businesses in participating in County contracts due to discrimination in the local economy.
- (7) The numerical goals for the participation of minority and women's businesses in County contracts are commensurate with the availability of minority and women's businesses willing and able to perform County work.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

**Sec. 34-277. Definitions.**

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bona fide resident of the County* means a person whose legal and actual residency is within the County borders.

*Certified or certification* means registration of the Minority Business Enterprises or Women's Business Enterprise status of a business in the County's Directory of Minority Business Enterprises, Women's Business Enterprises and Disadvantaged Business Enterprises ("PCE Directory").

*Commercially useful function* means the performance of real and actual services in the discharge of any contractual endeavor. The contractor must perform a distinct element of work which the business has the skill and expertise to perform and have the responsibility of actually performing, managing and supervising such element of work.

~~*Contract Compliance Administrator (CCA)* means the Contract Compliance Administrator of the County.~~

*Contractor* means any person or business entity that bids on or enters into a Contract with the County, and includes all partners and all joint ventures of such person or entity.

*Controlled*, for purposes of determining whether a business is a minority business enterprise or women's business enterprise, means the minority or the female owner shall:

- (1) Possess and exercise the legal authority and power to manage business assets, good will and daily operations of the business; and
- (2) Actively and continuously exercise such managerial authority and power in determining the policies and directing the daily operations of the business. If the owners who are not minorities or females are disproportionately responsible for the operation of the business, then the business is not controlled by minorities or females.

*County contracts* means any contract, purchase order or agreement (other than a lease or collective bargaining agreement):

- (1) Where the cost is to be paid from funds belonging to or administered by the County, including such funds subject to Federal reimbursement or which requires that monies be paid to the County; and
- (2) That is Board-valued at more than \$25,000.00.

*Joint venture* means an association of two or more businesses formed to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skills and knowledge.

*Minority Business Enterprise (MBE)* means a certified participating business at least 51 percent of which is owned and controlled by one or more members of one or more minority groups or, in the case of a publicly held corporation, 51 percent of the stock is owned by one or more members of one or more minority groups and whose daily business operations are controlled by one or more such individuals. A minority group member is an individual who is one of the following:

- (1) African-American or Black (persons with origins in any of the Black racial groups of Africa);
- (2) Hispanic American (persons of Spanish culture with origins from Puerto Rico, Mexico, Cuba, South or Central America, Spain, Portugal, or the Caribbean Islands regardless of race);

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (3) Native American (American Indian);
- (4) Asian-Pacific American (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, or the Indian subcontinent); or
- (5) Any other ethnically or racially identifiable group found by the ~~Contract Compliance Administrator~~ Purchasing Agent to have suffered actual racial or ethnic discrimination resulting in a competitive disadvantage or decreased opportunities to do business with the County.

*Owned* means having all the customary incidents of ownership, including the right of disposition, and the sharing in all risks and profits commensurate with the degree of ownership interest.

*Participating business* means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State (the "Six-County Region") that has the majority of its regular, full-time work force located within the Six-County Region and/or a business which has been placed on the vendors list maintained by the Purchasing Agent and/or has bid on or sought County work.

*Program* means the Minority and Women Owned Businesses Enterprise Program established herein.

*Protected Class Enterprise (PCE)*, for the purposes of this Program, shall mean those businesses qualifying under the definitions of *Minority Business Enterprise* and *Women's Business Enterprise* contained in this section.

*Purchasing Agent* means the Purchasing Agent of the County.

*Women's Business Enterprise (WBE)* means a certified participating business at least 51 percent of which is owned and controlled by one or more women, or, in the case of a publicly held corporation, 51 percent of the stock of which is owned by one or more women and whose daily business operations are controlled by one or more such individuals. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws.

#### **Sec. 34-278. Staffing and responsibilities for affirmative action.**

(a) *Contract Compliance Committee.* The members of the County Board shall elect, from the Board membership, a Contract Compliance Committee ("CCC") which shall consist of seven members of the County Board and which shall hereinafter become and remain a permanent Standing Committee of the County Board.

(b) ~~Contract Compliance Administrator~~ Purchasing Agent.

- (1) The provisions of this division and the affirmative action/procurement program ("program") established hereunder shall be administered, supervised and monitored by a ~~Contract Compliance Administrator ("CCA")~~ the Purchasing Agent and staff.
- (2) The ~~Contract Compliance Administrator's~~ Purchasing Agent's duties shall include (but not be limited to) the following areas:
  - a. Devising a certification procedure to assure that businesses taking advantage of this division are legitimate minority- or female-owned businesses.
  - b. Maintaining a list of all bona fide, certified businesses.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- c. Recommending guidelines and regulations for the use of Protected Class Enterprise participation procedures which shall be approved by the Contract Compliance Committee prior to submission to the County Board. These guidelines shall include, but shall not be limited to, definition of goals; conditions warranting and limiting waivers; and establishment of procedures for participation in the program.
  - d. Recommending enforcement procedures which shall be approved by the Contract Compliance Committee prior to submission to the County Board, whereby the Committee may recommend to the State's Attorney that the County exercise its legal remedies to ensure reasonable and timely progress toward established goals and to prevent prime contractors from engaging in any practices through which they qualify for protected participation on the basis of misrepresentation of subcontracts or qualifications of subcontractors.
  - e. Insuring the County's conformance with Federal and State affirmative action and equal employment opportunity laws and regulations.
  - f. Participating in all purchasing, bidding, and awards processes.
  - g. Participating in all precontract conferences.
  - h. Maintaining liaison with community groups.
  - i. Investigating affirmative action complaints, and reporting findings to the Contract Compliance Committee for presentation to the County Board.
  - j. Maintaining liaison with contractor, professional, and supplier groups and associations.
  - k. Providing technical assistance to appropriate County departments, offices, and divisions in drawing specifications to include opportunities for minority- and women-owned businesses.
  - l. Generating publicity, through media appearances and public speaking engagements, to provide information and clarification about the program to as broad-based an audience as possible.
  - m. Recommending measures for revision and updating of the program as the need is indicated.
- (3) Various parts of this program require information on the County's business and contracting activities be widely disseminated throughout the protected class community.

(c) *Purchasing Agent.* The Purchasing Agent shall take whatever steps are necessary to ensure that the purchasing staff views the implementation of this division as a priority. The Purchasing Agent ~~shall report quarterly to the Contract Compliance Administrator on the status of the program and~~ shall additionally be responsible for the following duties:

- (1) A listing of minority vendors and suppliers shall be prepared by the Purchasing Department and continually updated. This listing may use, but shall not be limited to, the County's Protected Class Enterprise Directory; ~~and updating of this list should be forwarded to the Contract Compliance Administrator;~~
- (2) All new vendors on this list shall be forwarded bidders list forms and instructions; these forms and instructions shall also be distributed to protected class vendors at conferences and workshops;

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (3) All Protected Class Enterprise vendors who complete the bidders list forms shall become part of the bidders list and shall be sent notice of upcoming bids related to the Protected Class Enterprise's business at the same time that such notice is sent to all prospective bidders;
- (4) All Protected Class Enterprise vendors who become part of the bidders list shall have their records coded so that the vendor's history kept by the Purchasing Department will show a monthly accounting of Protected Class Enterprise purchases ~~which can be reviewed by the Contract Compliance Administrator;~~
- (5) All staff in the Purchasing Department shall take part in periodic training, with respect to making purchases from protected class companies; ~~the Contract Compliance Administrator shall be consulted by the Purchasing Agent with regard to these training efforts and shall monitor both the training content and procedures;~~
- (6) The Purchasing Agent, ~~in conjunction with the Contract Compliance Administrator,~~ shall set up procurement "best effort" guidelines for the various members of the procurement staff; these guidelines shall set the standards by which Purchasing Department staff will seek to make purchases from protected businesses; they shall also serve as a measure for the compliance review of the department with respect to the protected class program; these "best effort" guidelines shall include, but shall not be limited to, the following:
  - a. Assist in identifying protected class suppliers and/or vendors located in greater Cook County area, by product or service line, and assessing their present capability and long-term business potential with the County.
  - b. Aggressively pursue protected class suppliers, seeking out qualified and qualifiable protected class businesses in deliberate outreach efforts.
  - c. Review expected purchases on a continuous basis with the aim of matching potential protected class vendors and projected needs.
  - d. Arrange meetings with management of vendors, and make facility visits where appropriate.
  - e. Provide information to potential protected class suppliers regarding the County's purchasing policies and requirements.
  - f. Provide information to protected class suppliers or vendors regarding the County's competitive standards and prices.
  - g. Maintain accurate recordkeeping of all efforts and actual purchases made from protected class companies.

**Sec. 34-279. Application of division.**

This division shall be applied to all County contracts, including those contracts under which there are residency qualifications, except to the extent it may be inconsistent with any applicable State or Federal statute, regulation or program.

**Sec. 34-280. Program goals.**

(a) In fulfillment of its policy to promote equal opportunity in its procurement process, the County establishes the goal that Protected Class Enterprises shall participate in not less than 35 percent of the annual aggregate value of all contracts awarded by the County. County procurement personnel will make their best efforts to recruit and solicit bids and make purchases from qualified Protected Class Enterprises.



## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (1) Not less than 25 percent of the annual total dollar amount of County contracts and 30 percent of the annual total dollar amount of construction contracts will be established as a goal to be awarded to Minority Business Enterprises.
- (2) Not less than ten percent of the total dollar amount of County contracts, will be established as a goal to be awarded to Women's Business Enterprises.
- (3) The above stated percentages relate to the total dollar amount of County contracts during each fiscal year calculated by examining independently each type of contract.

(b) The County shall comply with all applicable Federal and State policies requiring affirmative action to increase the employment opportunities of minority and female workers on its construction projects.

(c) No goal shall be treated as a quota nor shall it be used to discriminate against any person or business enterprise on the basis of race, color, national origin, religion or sex.

#### **Sec. 34-281. Implementation.**

##### **(a) *Contract goals.***

- (1) To achieve the goals stated in Section 34-280, the Purchasing Agent, except as provided in Subsection (a)(2) of this section, shall include in the bid specifications a requirement that each contractor commit that Minority Business Enterprise and Women's Business Enterprise participation in the contract will equal at least 25 percent (30 percent in the case of construction contracts) and ten percent, respectively, of the total dollar value of the contract.
- (2) The ~~Contract Compliance Administrator~~ Purchasing Agent shall evaluate the applicability of the Minority Business Enterprise and Women's Business Enterprise goals to a specific contract. Where the ~~Contract Compliance Administrator~~ Purchasing Agent, in consultation with the ~~Purchasing Agent~~ and the user Departments, determines that the established goals are not appropriate for a specific contract because of its particular requirements, the ~~Contract Compliance Administrator~~ Purchasing Agent shall set an appropriate goal for the contract, based upon the availability of Protected Class Enterprises which are capable of providing the goods and/or services required by the particular contract, the past level of Protected Class Enterprise participation in similar contracts, the specifications of the contract and any other criteria adopted by the ~~Contract Compliance Administrator~~ Purchasing Agent.
- (3) The applicable goals for a specific contract shall be designated in the contract specifications.

##### **(b) *Contractor responsibility and requirements.***

- (1) As a precondition to selection, each contractor shall submit with its bid a completed and signed utilization plan which lists the names, addresses and contact persons of businesses intended to be used as Protected Class Enterprises on the contract, the type and scope of work or service each business will perform and the dollar amount to be allocated to each Protected Class Enterprise. Such listing shall not be duplicative (e.g., two or more entities each listed as performing 100 percent of the same work or service). Within three business days following submission of bids, a bidder shall submit its letters of intent to Protected Class Enterprises listed on its utilization plan, provided that no substitutions shall be permitted prior to bid award. Each contractor's utilization plan shall commit to Protected Class Enterprise participation equal to or greater than each of the applicable Protected Class Enterprise goals, unless the contractor requests a partial or total waiver of the requirement that it file a utilization plan or achieve a particular goal for Protected Class Enterprise participation by submitting with the filing of its bid a signed waiver request form.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (2) Notwithstanding its compliance with any other requirement of County ordinances and contract specifications, no bidder or offer shall be awarded an eligible contract unless the ~~Contract Compliance Administrator~~ Purchasing Agent has approved its utilization plan or granted a waiver on the contract. Such utilization plan shall be designed to meet the applicable Minority Business Enterprise and Women's Business Enterprise goals set for such project and shall be incorporated into the contract.
- (3) A contractor may achieve the applicable Protected Class Enterprise goals by its status as a Protected Class Enterprise or by joint venture with one or more Protected Class Enterprises or by subcontracting a portion of the work to one or more Protected Class Enterprises or by purchase of materials or services from one or more Protected Class Enterprises or by the indirect participation of Protected Class Enterprises in other aspects of the contractor's business such as through a Mentor/Protégé agreement as provided herein (in accordance with applicable guidelines and provided that such Protected Class Enterprise indirect participation may not be credited toward goal attainment on more than one contract subject to this article) or by any combination of the above, subject to the following guidelines:
  - a. *Joint ventures.* Where a contractor engages in a joint venture to satisfy its affirmative action commitment, the ~~Contract Compliance Administrator~~ Purchasing Agent shall review the profits and losses, initial capital investment, actual participation of the joint venture partners in the performance of the contract, and other pertinent factors to determine the amount of credit to be granted for the joint venture toward attainment of the applicable Minority Business Enterprise and Women's Business Enterprise goals. The ~~Contract Compliance Administrator~~ Purchasing Agent may review all records pertaining to joint venture agreements before or after the award of a contract in order to assess compliance with this article. A contractor shall receive credit towards achievement of the applicable goals in proportion to the percentage of the contract to be performed by the Protected Class Enterprise, provided that the ~~Contract Compliance Administrator~~ Purchasing Agent may deny or limit Protected Class Enterprise credit to a contractor where the Protected Class Enterprise joint venture partner is found not to be performing a commercially useful function or not to have duties, responsibilities, management control or risk with respect to the joint venture commensurate with or in proportion to its joint venture ownership.
  - b. *Subcontracts.* A contractor may count toward its Protected Class Enterprise goals only expenditures to Protected Class Enterprises that perform a commercially useful function in the performance of a contract for work actually performed or materials supplied by the Protected Class Enterprise. To determine whether a Protected Class Enterprise is performing a commercially useful function, the ~~Contract Compliance Administrator~~ Purchasing Agent may evaluate the amount of work subcontracted, industry practices, whether the Protected Class Enterprise has the skill and experience to perform the work for which it is being utilized and other relevant factors. Consistent with normal industry practices, a Protected Class Enterprise subcontractor may enter into second tier subcontracts. However, if a Protected Class Enterprise contractor or subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the Minority Business Enterprise or Women's Business Enterprise shall be presumed not to be performing a commercially useful function.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- c. *Manufacturers and suppliers.* Where a contractor utilizes one or more suppliers to achieve its Protected Class Enterprise goals, such Protected Class Enterprise supplier participation may be 100 percent credited toward goal attainment where the Protected Class Enterprise supplier manufactures the goods supplied or where such Protected Class Enterprise supplier owns or operates a store, warehouse or other establishment (and related distribution equipment) in which it maintains, consistent with industry standards, an inventory of the materials or supplies required for performance of the contract for sale in the normal course of business. The participation of a Protected Class Enterprise supplier who acts as a broker (i.e., who performs no manufacturing or warehousing) shall be credited toward the applicable Protected Class Enterprise goals at a rate equal to ten percent of the payments to such Protected Class Enterprise broker.
- d. *Protected Class Enterprise prime contractors or joint venturers.* A Minority Business Enterprise or Women's Business Enterprise contractor may count its own participation toward the achievement of the applicable Minority Business Enterprise or Women's Business Enterprise goal, respectively, but such a contractor will be required to meet all other applicable goals by joint ventures, subcontracting or purchase of materials or services. Where a contractor is a business owned and controlled by minority women ("M/WBE") or where the contractor utilizes a M/WBE in a joint venture, as a subcontractor or a supplier, the contractor may count the M/WBE participation either toward the achievement of its Minority Business Enterprise or Women's Business Enterprise goal but not both.
- e. *Mentor/protégé agreements.* Where a contractor enters into a written agreement ("mentor/protégé" agreement) with a Protected Class Enterprise to improve or develop certain aspects of the business of the Protected Class Enterprise, such an agreement may be evaluated by the ~~Contract Compliance Administrator~~ Purchasing Agent to assess appropriate credit toward the Protected Class Enterprise goals of the contractor. The contractor and Protected Class Enterprise shall remain separate and independent business entities under the agreement. The mentor/protege agreement may provide for the contractor to assist the Protected Class Enterprise in such areas as technical aspects of its business, improving financial management, or providing on-the-job training. No such credit shall be available unless:
  - 1. The Protected Class Enterprise provides a commercially useful function in the performance of its agreement with the contractor;
  - 2. The agreement is in writing and is submitted to the ~~Contract Compliance Administrator~~ Purchasing Agent before the award of the contract; and
  - 3. The agreement clearly defines the respective responsibilities of the contractor and the Protected Class Enterprise and includes specific, measurable goals to be attained by both parties through the performance of the agreement. Upon recommendation by the ~~Contract Compliance Administrator~~ Purchasing Agent, the Contract Compliance Committee shall determine the amount of credit to be counted toward the applicable goals of this division. The ~~Contract Compliance Administrator~~ Purchasing Agent shall require the contractor to submit periodic reports summarizing the progress of the execution of the mentor/protégé agreement, and shall notify both parties of any deficiencies in performance. In order to qualify for credit, the mentor/protégé agreement must coincide in duration with, or not be for a shorter length of time than, the contract between the contractor and the County.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (4) Where a contractor seeks relief from all or part of a contract's goals, the contractor shall submit with its bid a proposal or request for a waiver.
  - (5) A contractor's submission of a utilization plan which commits to a Protected Class Enterprise participation goal equal to or greater than the applicable goals shall not provide a basis for a higher bid, an increase in contract price or later change order.
- (c) *Review of bid or offer.*
- (1) The ~~Contract Compliance Administrator~~ Purchasing Agent shall review each bid or offer to determine if the contractor has included in its submission a completed and signed utilization plan which meets the Protected Class Enterprise goals for the contract, and approve or reject the plan.
  - (2) The Purchasing Agent, ~~at the direction of the Contract Compliance Administrator~~, shall declare the bid or offer nonresponsive where the ~~Contract Compliance Administrator~~ Purchasing Agent determines that a contractor:
    - a. Failed to submit with its bid a completed utilization plan;
    - b. Failed to identify in its plan sufficient Minority Business Enterprises and/or Women's Business Enterprises by name, scope of work and dollar value of work to meet the applicable goals for the contract; or
    - c. Failed to submit with its bid a request for a total or partial waiver of the applicable goals.
  - (3) Where a partial or total request for waiver of a goal is made, the ~~Contract Compliance Administrator~~ Purchasing Agent shall determine whether a bidder or offerors has made good faith efforts to meet the applicable Protected Class Enterprise goals and whether a total or partial waiver of a goal should be granted. Good faith efforts, as defined herein, shall include, but are not limited to, the following:
    - a. Attend any prebid conference conducted by the County to acquaint contractors with Protected Class Enterprises available to provide relevant goods and services and to inform Protected Class Enterprise's of subcontract opportunities on the contract;
    - b. Review lists of available Protected Class Enterprises maintained by the County and other State and local governments and agencies prior to the bid opening to identify qualified Protected Class Enterprises for solicitation for bids;
    - c. Advertise, not less than 15 calendar days before the bid opening date, in one or more daily newspapers and/or trade publications, for bids by Protected Class Enterprises for subcontracts or the supply of goods and services on the contract;
    - d. Make timely written solicitations of available Protected Class Enterprises identified on the County's list as providing relevant services for bids for subcontracts or the supply of goods and services; and provide Protected Class Enterprises with a convenient and timely opportunity to review and obtain relevant plans, specifications or terms and conditions of the contract to enable such Protected Class Enterprises to prepare an informed response to a contractor solicitation;

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- e. Divide total contract requirements into small tasks or quantities and adjust performance bond and insurance requirements or otherwise assist Protected Class Enterprises in obtaining the required bonding, insurance or financing, where economically feasible, to encourage participation of Protected Class Enterprises;
  - f. Follow up initial solicitation of Protected Class Enterprises by contacting Protected Class Enterprises to determine if the enterprises are interested in making bids;
  - g. Negotiate in good faith with Protected Class Enterprises prior to the bid opening and do not reject as unsatisfactory any bids submitted by Protected Class Enterprises without justifiable reason;
  - h. Establish delivery schedules, where the requirements of the work permit, which will encourage participation by Protected Class Enterprises;
  - i. Establish joint ventures with Protected Class Enterprises;
  - j. Use the services and assistance of ~~the Contract Compliance Administrator's staff,~~ the Small Business Administration, the Office of Minority Business Enterprises of the U.S. Department of Commerce and where the contractor seeks a waiver, make timely notice of the need for Protected Class Enterprise subcontractors to an appropriate community and minority and women's business organization identified as an assist agency with respect to this article.
- (4) A contractor seeking a total or partial waiver shall, in accordance with guidelines issued by the ~~Contract Compliance Administrator~~ Purchasing Agent, be required to submit evidence of its good faith efforts to achieve the applicable Protected Class Enterprise goals and in support of its reasons for seeking a waiver. Performance of all the actions set out in Subsection (c)(3) of this section by the contractor shall create a rebuttable assumption that the contractor has made good faith efforts to meet the applicable Protected Class Enterprise goals. The determination of the adequacy of a contractor's good faith efforts will be evaluated on the basis of the contractor's actions as of the date of the bid opening.
- (5) The ~~Contract Compliance Administrator~~ Purchasing Agent may grant the waiver request of a contractor based upon the following criteria:
- a. Sufficient qualified Protected Class Enterprises capable of providing the goods or services required by the contract are unavailable despite the good faith efforts of the contractor;
  - b. The specifications of and the reasonable and necessary requirements for performing the contract make it impossible or economically infeasible to divide the contract into sufficiently small tasks or quantities to enable the contractor to utilize Protected Class Enterprises in accordance with the applicable utilization goals;
  - c. The price quoted by any potential Protected Class Enterprise source of goods or services is more than ten percent above competitive levels; and
  - d. Any other factor determined to be relevant by the Contract Compliance Administrator.
- (6) Where a partial waiver is granted, the ~~Contract Compliance Administrator~~ Purchasing Agent shall specify the amount of the applicable goal.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (7) Where the ~~Contract Compliance Administrator~~ Purchasing Agent determines that a contractor has not made a good faith effort to meet the applicable goals and/or comply with the provisions herein, including, but not limited to, failing to timely submit the required letters of intent or other information request and/or has not otherwise met the requirements for a total or partial waiver, the Purchasing Agent may declare the contractor nonresponsive and reject the bid and reject any waiver request which may have been filed.
- (8) Where the ~~Contract Compliance Administrator~~ Purchasing Agent determines that the utilization plan submitted by a contractor is false or fraudulent, the Purchasing Agent shall reject the bid or, if such a determination is made after the bid award, the contract may be forfeited and canceled.

(d) *Subcontract requirements.* Within 30 days after demand, the prime contractor shall furnish fully executed copies of all protected class subagreements and these shall be reviewed by the ~~Contract Compliance Administrator~~ Purchasing Agent and submitted to the Contract Compliance Committee of the County Board. Subsequently, the prime contractor shall obtain and submit a copy of all Minority Business Enterprise or Women's Business Enterprise related subtier contracts on demand.

(e) *Review of contract performance.*

- (1) The ~~Contract Compliance Administrator~~ Purchasing Agent shall review the contractor's efforts during the performance of the contract to achieve its Protected Class Enterprise commitments as stated in its utilization plan. If the contractor meets or exceeds its stated goals, it shall be presumed to be in compliance. Where the ~~Contract Compliance Administrator~~ Purchasing Agent finds that the contractor has failed to achieve its stated goals or otherwise has failed to comply with the requirements of the division, including failure to provide any documentation required by the ~~Contract Compliance Administrator~~ Purchasing Agent, has not satisfactorily demonstrated good faith efforts, and/or has deviated without authorization from the compliance related portions of the contract as originally approved, the ~~Contract Compliance Administrator~~ Purchasing Agent shall report findings to the Contract Compliance Committee.
- (2) The ~~Contract Compliance Administrator~~ Purchasing Agent may establish such requirements for periodic contractor reporting on the fulfillment of its goals and its utilization of Protected Class Enterprises as the ~~Contract Compliance Administrator~~ Purchasing Agent determines appropriate and necessary for effective enforcement of this division. A contractor also shall be required to provide the ~~Contract Compliance Administrator~~ Purchasing Agent any additional requested compliance documentation within 14 days of such request.
- (3) If the Contract Compliance Committee determines that the contractor has failed to comply with its contractual commitments or any portion of this division, the Contract Compliance Committee will notify the contractor of such noncompliance and may take any of the following actions:
  - a. Instruct the Comptroller to withhold 50 percent of the current progress payment due the prime contractor.
  - b. Withhold up to 100 percent of further progress payments until the contractor demonstrates that it is in compliance with the requirements of this division.
  - c. Debar the contractor from future bids or offers until the contractor demonstrates that it is in compliance with the requirements of this division.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(f) *Protected Class Enterprise bid and target market programs.* To address more specifically the barriers to Protected Class Enterprise participation as prime contractors in County work, the ~~Contract Compliance Administrator~~ Purchasing Agent may ~~direct the Purchasing Agent to~~ institute the following special Protected Class Enterprise bidding provisions, following determination of the appropriateness of such provisions.

- (1) In connection with the award of a contract subject to competitive bidding on which a Protected Class Enterprise has bid and where the Protected Class Enterprise meets the following criteria:
  - a. It is bidding on the item in question for the first time; and
  - b. It never has successfully bid on a Cook County purchasing contract, the ~~Contract Compliance Administrator~~ Purchasing Agent may, at the opening of the bids on the item, compare the Protected Class Enterprise bid with the lowest bid, and, if the Protected Class Enterprise's bid is closely competitive as defined by guidelines to be established by the ~~Contract Compliance Administrator~~ Purchasing Agent with that of lowest actual bids, ~~direct the Purchasing Agent to~~ declare the Protected Class Enterprise the successful bidder. A Protected Class Enterprise may use this procedure only once to become the successful bidder on any particular item. Thereafter, the Protected Class Enterprise must be totally competitive in terms of price to be the successful bidder.
- (2) The ~~Contract Compliance Administrator~~ Purchasing Agent shall develop and coordinate a target market program as follows:
  - a. The ~~Contract Compliance Administrator~~ Purchasing Agent shall review the availability of Protected Class Enterprises providing various goods and services and shall identify for inclusion in a potential program for bidding among Protected Class Enterprise firms certain commodity areas with sufficient Protected Class Enterprise availability to ensure that the County receives a competitive price. The ~~Contract Compliance Administrator~~ Purchasing Agent shall report his/her findings and recommendations to the Contract Compliance Committee;
  - b. Upon a determination by the Contract Compliance Committee that such a program is advisable for any particular commodity procurement, the ~~Contract Compliance Administrator~~ Purchasing Agent will institute the following procedures:
    1. The ~~Contract Compliance Administrator~~ Purchasing Agent will notify the Purchasing Agent of identification of those commodity codes appropriate for a target market program;
    2. To the extent practicable, the Purchasing Agent, with the aid of the ~~Contract Compliance Administrator~~ Purchasing Agent, shall divide procurement in the designated commodity areas into economically feasible sizes to facilitate bids or offers from Protected Class Enterprises and shall designate contracts to be offered under the target market program;
    3. The Purchasing Agent shall offer Protected Class Enterprises the opportunity to bid on such contracts in a limited competition;
    4. All standard County rules for bidding will then become effective and, provided that at least three Protected Class Enterprises bid or make an offer on the contract, the lowest responsive and responsible bidder among the Protected Class Enterprise firms will receive the contract;

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

5. In the event less than three Protected Class Enterprises bid or make an offer on the contract or if there is no responsive bid or offer received from a responsible Protected Class Enterprise, the Purchasing Agent shall rebid the contract not subject to the target market program.

- c. Participation in the target market program shall be limited to Minority Business Enterprises, Women's Business Enterprises and joint ventures consisting exclusively of Minority Business Enterprises, Women's Business Enterprises or both. The Protected Class Enterprise contractor on a target market contract may subcontract up to 50 percent of the dollar value of the target market contract to subcontractors who are not Minority Business Enterprises or Women's Business Enterprises.

(g) *Fifty percent Protected Class Enterprises required for informal bid solicitations.* All buyers shall solicit 50 percent PCEs in their informal bid solicitations for materials under \$10,000.00, which are not bid by formal advertising.

(h) *Buyers to use Protected Class Enterprises in requisitions.* All buyers will make every effort to use *Protected Class Enterprises* whenever possible in their requisitions for materials under \$10,000.00, which are not bid.

(i) *Division of large contracts to facilitate offers from Protected Class Enterprises.* With respect to large contracts for which subcontracting possibilities are impracticable, all buyers will, to the extent practicable, divide such contracts into economically feasible sizes to facilitate bids or offers from *Protected Class Enterprises*.

(j) *Technical assistance.* The contractor is bound by all the requirements, terms, and conditions of this article. Subsequent to the acceptance of an awarded contract, there will be no waiver of the requirements, terms and conditions. The County Board, through its Contract Compliance Committee and the ~~Contract Compliance Administrator~~ Purchasing Agent, will make technical assistance in meeting the terms and conditions of this article available to all interested bidders.

- (k) *Finance; measures for reduction of cash flow problems of protected class contractors.*

- (1) As needed, the ~~Contract Compliance Administrator~~ Purchasing Agent shall assist *Protected Class Enterprises* with training seminars in the technical aspects of preparing a bid for a County contract.
- (2) All prime contractors shall be urged to follow the County's example by making prompt and timely payments to Protected Class Enterprise subcontractors working on Cook County projects. The timeliness of such payments shall be monitored by the ~~Contract Compliance Administrator~~ Purchasing Agent on a regular basis, and an investigation shall be made of every complaint or charge of excessive delay in payment. Reports of these investigations shall be made to the Contract Compliance Committee and to the County Comptroller.
- (3) If at any time during the progress of the work, the contractor shall fail or neglect to pay a Protected Class Enterprise subcontractor for any labor performed, furnished, or tools, machinery, appliances, fuels, provisions or supplies of any sort or kind used or consumed upon, in or on account of the work for ten days after payment for same shall become due, then the County shall have the power and authority to pay such indebtedness, and the amount so paid shall be retained out of the money due or to become due the contractor. The County Comptroller may refuse to make the payment hereinafter specified to the extent of such indebtedness, until satisfactory evidence in writing has been furnished that the indebtedness has been discharged. In any such case, the Purchasing Agent is hereby authorized and empowered by the contractor to ascertain the amount due or owing from the contractor to any laborer or laborers, or to any person or persons, or corporation, for labor, equipment, material, tools, machinery, appliances, provisions, fuels, or supplies of any sort or kind consumed upon, in or on account of the work covered by this contract in such manner and upon such proofs as may be deemed sufficient.



## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (4) The County Board shall encourage major prime contractors to make available to Protected Class Enterprise subcontractors working on their projects their sources of financial assistance.

(1) *Contract award considerations.* Where the lowest responsive contractor submits a bid/offer which exceeds by ten percent or more the bid/offer of the lowest PCE nonresponsive contractor ["PCE nonresponsive" for purposes of this subsection means nonresponsive pursuant to Subsection (c)(2) of this section, but otherwise responsive to the contract specifications], the County shall have the right to reject all bids/offers and rebid or request further offers.

#### **Sec. 34-282. Professionals and consulting services and sole source agreements.**

All Department heads who may employ the professional services of accountants, attorneys, physicians, dentists, statisticians, data analysts, engineers, and other such personnel or who require goods or services procured through sole source agreements shall implement this article and compliance programs in a "best effort" manner. In lieu of the requirements set forth in Section 34-281(b), all providers of such professional services or goods or services are to be notified that:

- (1) In the case of term contracts (annually or for more than six months), they are to maximize the use of Protected Class Enterprises or individuals as subconsultants or subcontractors.
- (2) In the case of contracts instituted on an as-needed basis or lasting less than six months, they are to submit to the County affirmative action plans and goals and maximize the number of women and minority professionals in their firm who participate in various County projects.
- (3) In both of the above cases the internal affirmative action plans and goals of the providers shall be submitted to the ~~Contract Compliance Administrator~~ Purchasing Agent and shall be reviewed against the provider's actual affirmative action achievements and shall become a part of the provider's protected class compliance review; this twice yearly review by the ~~Contract Compliance Administrator~~ Purchasing Agent shall become a factor in the County's continued use of the services of providers.
- (4) The County sets a "best efforts" goal of 35 percent Protected Class Enterprise participation for the total professional services and consulting services utilized by the County. The County must be able to call upon those professionals whose particular training and experience most closely fit our needs. The County shall endeavor to increase utilization of protected class firms. Because use of such services is not programmed or predictable, a "best effort" standard shall be used for attainment of the goal amounts.

#### **Sec. 34-283. Other Federal and State regulations.**

Nothing in this division shall be interpreted to diminish or supplant equal employment opportunity requirements contained in Federal or State grant funded contracts.

#### **Sec. 34-284. Preference to residents of County.**

In addition to the goals established pursuant to Section 34-280, there is established as a goal that on any contract approved by the County Board there will be utilization of at least 50 percent bona fide County residents and 30 percent minorities in each trade for each project awarded by the County and in the aggregated workforce in each project five percent will be females.

#### **Sec. 34-285. Reporting and review.**

The County Board directs the Contract Compliance Administrator to report to the County Board on an annual basis with respect to the following:

- (1) The level of Protected Class Enterprise participation achieved in each year in County contracts subject to this division;

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (2) The then current estimated availability of *Protected Class Enterprises* to perform County contracts;
- (3) An evaluation of the effectiveness of the article in ensuring full and equitable participation by *Protected Class Enterprises* in County contracts and in mitigating the competitive disadvantage suffered by Minority Business Enterprises and Women's Business Enterprises due to the present effects of discrimination in the local economy and award public contracts;
- (4) An assessment of the continuing need for utilization goals for specific types of goods and services used in County contracts;
- (5) Identification of any enforcement problems; and
- (6) Any recommendations with respect to improving the County's effectiveness in remedying the effects of discrimination against Minority Business Enterprises and Women's Business Enterprises and/or discontinuing or modifying any affirmative action requirements in those cases where Minority Business Enterprises and Women's Business Enterprises no longer are disadvantaged by the effects of discrimination in their participation in County contracts.

*Subdivision II. Construction Interim Ordinance*

**Sec. 34-286. Title.**

This subdivision shall be known as the "Minority- and Women-Owned Business Enterprise Construction Interim Ordinance" and may be cited as such.

**Sec. 34-287. Recitals.**

The President and the Board of Commissioners of the County of Cook find that all of the recitals contained in the preambles to Ordinance No. 06-O-48 are full, true and correct and do incorporate them into this subdivision by this reference.

**Sec. 34-288. Findings of discrimination.**

The President and the Board of Commissioners of the County of Cook, after considering (i) evidence presented at trial in *Builders Association of Greater Chicago v. City of Chicago*, 298 F.Supp.2d 725 (N.D. Ill. 2003) and *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2005 U.S. Dist. LEXIS 19868 (N.D. Ill. Sept. 8, 2005); (ii) County statistical evidence of continuing discrimination against Blacks, Hispanics, Asians and women in the County's contracting awards; (iii) the Report title, "Review of Compelling Evidence of Discrimination Against Minority- and Women-Owned Business Enterprise in the Chicago Area Construction Industry and Recommendations for Narrowly Tailored Remedies for Cook County, Illinois;" as well as (iv) anecdotal evidence of discrimination against minorities and women in the County's construction marketplace; and (v) receiving and considering written reports, adopts the following findings as a strong basis in evidence supporting a narrowly tailored, remedial affirmative action program in County construction contracting:

(a) The County of Cook seeks to provide a level playing field and equal access for all prime contractors and subcontractors to participate in County construction contracting opportunities;

(b) Since the County's affirmative action program as it relates to construction projects was declared unconstitutional in 2000, the County has witnessed a drastic reduction in M/WBE construction prime contract and subcontract participation;

(c) The County has engaged in committee hearings in which the County has heard anecdotal evidence of discrimination in the construction industry, has commissioned a study on the levels of M/WBE participation in County contracts, has reviewed the report prepared indicating evidence of discrimination in County construction contracts and has considered the evidence in relevant case law;

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(d) In the absence of M/WBE participation goals the County has witnessed a drastic decline in M/WBE participation in its construction contract below the availability of such firms and thus would be a passive participant in a discriminatory marketplace without the use of such M/WBE goals;

(e) The County has a compelling interest in preventing discrimination; and

(f) The County desires to reaffirm its commitment to full and fair opportunities for all firms to participate in its construction contracts.

#### **Sec. 34-289. Public purpose.**

It is hereby found, determined and declared that the purpose of this Interim Ordinance is to take steps to ensure the full and equitable participation of Minority- and Women-Owned Business Enterprises in the County's procurement process as both prime and subcontractors in the County's construction contracts. The County is committed to a policy of preventing discrimination in the award of or participation in construction contracts and has recommended appropriate affirmative action steps to be taken to eliminate any such discrimination.

#### **Sec. 34-290. Applicability.**

This subdivision shall apply to all construction contracts funded in whole or in part by County funds, regardless of the sources of other funds; provided that any contract with respect to which a goal for Minority-Owned Business Enterprise or Women-Owned Business Enterprise participation is inconsistent with or prohibited by State or Federal law shall be exempt from the goals included in this subdivision.

#### **Sec. 34- 291. Severability.**

If any section, subsection, clause or provision of this subdivision is held to be invalid by a court of competent jurisdiction, the remainder of the subdivision shall not be affected by such invalidity.

#### **Sec. 34-292. Definitions.**

The following terms shall have the following meanings:

*Affiliate* of a person or entity means a person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity. In determining Affiliation, the County shall consider all appropriate factors, including common ownership, common management, and contractual relationships.

*Annual Participation Goals* mean the targeted levels established by the County for the annual aggregate participation of MBEs and WBEs in County construction contracts.

*Certified Firm* means a firm that has been accepted by the County as a certified MBE or WBE.

*County* means the County of Cook and its participating User Departments.

*County's Marketplace* means the Metropolitan Statistical Area for Chicago, as established by the Bureau of the Census, currently the counties of Cook, DuPage, Kane, Lake, McHenry and Will.

*Contractor* means any person or business entity that seeks to enter into a construction contract with the County, other than professional services, and includes all partners, Affiliates and Joint Ventures of such person or entity.

*Commercially Useful Function* means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, or fulfilling responsibilities as a Joint Venture partner.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

*Director* means the Director of the Office of ~~Contract Compliance~~ the Purchasing Agent.

*Doing Business* means having a physical location from which to engage in for profit activities in the scope(s) of expertise of the firm.

*Economically Disadvantaged* means an individual with a Personal Net Worth less than \$2,000,000.00 indexed annually for the Chicago Metro Area Consumer Price Index, published by the U.S. Department of Labor, Bureau of Labor Standards, beginning January 2007.

*Expertise* means demonstrated skills, knowledge or ability to perform in the field of endeavor in which certification is sought by the firm as defined by normal industry practices, including licensure where required.

*Good Faith Efforts* means actions undertaken by a Contractor to achieve a MBE or WBE goal, which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Program's goals.

*Joint Venture* means an association of two or more persons, or any combination of types of business enterprises and persons numbering two or more, proposing to perform a single for profit business enterprise, in which each Joint Venture partner contributes property, capital, efforts, skill and knowledge, and in which the Certified Firm is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the Joint Venture are equal to its ownership interest. Joint Ventures must have an agreement in writing specifying the terms and conditions of the relationships between the partners and their relationship and responsibility to the contract.

*Local Business* means a business entity located within the County's Marketplace which has the majority of its regular, full time work force located within the County's Marketplace.

*Manufacturer* means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

*Minority Business Enterprise (MBE)* means a Local Small Business, including a sole proprietorship, partnership, corporation, limited liability company, Joint Venture or any other business or professional entity:

- (1) Which is at least 51 percent owned by one or more Minority Individuals, or in the case of a publicly owned business, at least 51 percent of all classes of the stock of which is owned by one or more Minority Individuals;
- (2) Whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more such more Minority Individuals;
- (3) Which performs a Commercially Useful Function;
- (4) Which is a Certified Firm; and
- (5) Which is a Small Business Enterprise.

*Minority Individual* means a person:

- (1) African-Americans or Blacks, which includes persons having origins in any of the Black racial groups of Africa;
- (2) Hispanic-Americans, which includes persons of Mexican, Puerto Rican, Cuban, Caribbean, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (3) Native-Americans, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; or
- (4) Asian-Americans (persons whose origins are in any of the original peoples of the Far East, Southeast Asia, the islands of the Pacific or the Northern Marianas, or the Indian Subcontinent); or
- (5) Individual members of other groups, including but not limited to Arab-Americans, found by the County to be socially disadvantaged by having suffered racial or ethnic prejudice or cultural bias within American society, without regard to individual qualities, resulting in decreased opportunities to compete in the County's marketplace or to do business with the County.

*Owned* means having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

*Personal Net Worth* means the net value of the assets of an individual after total liabilities are deducted. An individual's personal net worth does not include the individual's ownership interest in an applicant or other County certified MBE or WBE, provided that the other firm is certified by a governmental agency that meets the County's eligibility criteria or the individual's equity in his or her primary place or residence. As to assets held jointly with his or her spouse, an individual's personal net worth includes only that individual's share of such assets. An individual's net worth also includes the present value of the individual's interest in any vested pension plans, individual retirement accounts, or other retirement savings or investment programs less the tax and interest penalties that would be imposed if the asset were distributed at the present time.

*Program* means the Interim Program established by the Minority- and Women- Owned Business Enterprise Interim Ordinance.

*Project Specific Goals* means the Goals established for a particular project or contract based upon the availability of MBEs or WBEs in the scopes of work of the Project.

*Regular Dealer* means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a Regular Dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A firm may be a Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of a Regular Dealer's distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, manufacture representatives, or other persons who arrange or expedite transactions are not Regular Dealers.

*Small Business* means a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 CFR Part 121, relevant to the scope(s) of work the firm seeks to perform on County contracts. A firm is not an eligible small business enterprise in any calendar fiscal year in which its gross receipts, averaged over the firm's previous five fiscal years, exceed the size standards of 13 CFR Part 121.

*Socially Disadvantaged* means a Minority Individual or Woman who has been subjected to racial, ethnic or gender prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to individual qualities. Social disadvantage must stem from circumstances beyond the individual's control. A Socially Disadvantaged individual must be a citizen or lawfully admitted permanent resident of the United States.

*User Department* means the department of the County responsible for initiating the procurement process.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

*Utilization Plan* means the list of MBEs and WBEs that the Bidder/Proposer commits will be utilized, the scopes of the work and the dollar values or the percentages of the work to be performed.

*Woman* means a person of the female gender.

*Woman-Owned Business Enterprise (WBE)* means a Local Small Business, including a sole proprietorship, partnership, corporation, limited liability company, Joint Venture or any other business or professional entity:

- (1) Which is at least 51 percent owned by one or more Women, or in the case of a publicly owned business, at least 51 percent of all classes of the stock of which is owned by one or more Women;
- (2) Whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more such Women;
- (3) Which performs a Commercially Useful Function;
- (4) Which is a Certified Firm; and
- (5) Which is a Small Business Enterprise.

#### **Sec. 34-293. Program administration.**

(a) The Office of the ~~Contract Compliance~~ Purchasing Agent, which shall report to the President of the Board of Commissioners of Cook County, shall administer the Program, which duties shall include:

- (1) Formulating, proposing and implementing rules and regulations for the development, implementation and monitoring of the Program.
- (2) Providing information and assistance to MBEs and WBEs relating to County procurement practices and procedures, and bid specifications, requirements, goals and prerequisites.
- (3) Establishing uniform procedures and criteria for certifying, recertifying and decertifying businesses as MBEs and WBEs, accepting certifications by other agencies, and maintaining a directory of Certified Firms.
- (4) Establishing Project Specific Goals.
- (5) Evaluating Contractors' achievement of Project Specific Goals or Good Faith Efforts to meet Project Specific Goals.
- (6) Working with User Departments to monitor contracts to ensure prompt payments to MBEs and WBEs and compliance with Project Specific Goals and commitments, including gathering data to facilitate such monitoring.
- (7) Receiving, reviewing, and acting upon complaints and suggestions concerning the Program.
- (8) Collecting data to evaluate the Program and other County contracting initiatives.
- (9) Monitoring the Program and the County's progress towards the Annual Participation Goals. The Director shall report on a quarterly and annual basis to the President on the administration and operations of the Program.

(b) The User Departments that receive appropriate delegation for project management, contract management, and/or construction and/or design contract responsibility shall have the following duties and responsibilities with regard to the Program:

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (1) Assisting the Director with setting Project Specific Goals.
- (2) Assisting in the identification of available MBEs and WBEs, and providing other assistance in meeting the Project Specific Goals.
- (3) Performing other activities to support the Program.
- (4) Gathering and maintaining prime contracting and subcontracting data for those contracts which they manage.
- (5) Submitting subcontracting data as required to the Director.

**Sec. 34-294. Race- and gender-neutral measures to ensure equal opportunities for all contractors and subcontractors.**

The County shall develop and use measures to facilitate the participation of all firms in County construction contracting activities. These measures shall include, but are not limited to:

- (a) Arranging solicitation times for the presentations of bids, quantities, specifications, and delivery schedules to facilitate the participation of interested firms;
- (b) Segmenting contracts to facilitate the participation of MBEs, WBEs and other Small Businesses;
- (c) Providing timely information on contracting procedures, bid preparation and specific contracting opportunities;
- (d) Providing assistance to businesses in overcoming barriers such as difficulty in obtaining bonding and financing;
- (e) Holding pre-bid conferences, where appropriate, to explain the projects and to encourage Contractors to use all available firms as subcontractors;
- (f) Adopting prompt payment procedures, including, requiring by contract that prime Contractors promptly pay subcontractors;
- (g) Reviewing retainage, bonding and insurance requirements to eliminate unnecessary barriers to contracting with the County;
- (h) Collecting information from all prime Contractors on County construction contracts detailing the bids received from all subcontractors for County construction contracts and the expenditures to subcontractors utilized by prime Contractors on County construction contracts;
- (i) At the discretion of the County, letting a representative sample of County construction contracts without goals, to determine MBE and WBE utilization in the absence of goals;
- (j) Maintaining information on all firms bidding on County prime contracts and subcontracts; and
- (k) Referring complaints of discrimination to Cook County's Commission on Human Relations, or other appropriate authority, for investigation.

**Sec. 34-295. Program eligibility.**

- (a) Only businesses that meet the criteria for certification as a MBE or WBE may participate in the Program. The applicant has the burden of persuasion by a preponderance of the evidence.
- (b) Only a firm owned by a Socially and Economically Disadvantaged person(s) may be certified as a MBE or WBE.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (1) The firm's ownership by a Socially and Economically Disadvantaged person must be real, substantial, and continuing, going beyond *pro forma* ownership of the firm as reflected in ownership documents. The owner(s) must enjoy the customary incidents of ownership and share in the risks and profits commensurate with that ownership interest.
  - (2) The contributions of capital or Expertise by the Socially and Economically Disadvantaged owner(s) to acquire the ownership interest must be real and substantial. If Expertise is relied upon as part of a Socially and Economically Disadvantaged owner's contribution to acquire ownership, the Expertise must be of the requisite quality generally recognized in a specialized field, in areas critical to the firm's operations, indispensable to the firm's potential success, specific to the type of work the firm performs and documented in the firm's records. The individual whose Expertise is relied upon must have a commensurate financial investment in the firm.
- (c) Only a firm that is managed and controlled by a Socially and Economically Disadvantaged person(s) may be certified as a MBE or WBE.
- (1) A firm must not be subject to any formal or informal restrictions that limit the customary discretion of the Socially and Economically Disadvantaged owner(s). There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices that prevent the Socially and Economically Disadvantaged owner(s), without the cooperation or vote of any non-Socially and Economically Disadvantaged person, from making any business decision of the firm, including the making of obligations or the dispersing of funds.
  - (2) The Socially and Economically Disadvantaged owner(s) must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on management, policy, operations and work.
  - (3) The Socially and Economically Disadvantaged owner(s) may delegate various areas of the management or daily operations of the firm to persons who are not Socially and Economically Disadvantaged. Such delegations of authority must be revocable, and the Socially and Economically Disadvantaged owner(s) must retain the power to hire and fire any such person. The Socially and Economically Disadvantaged owner(s) must actually exercise control over the firm's operations, work, management and policy.
  - (4) The Socially and Economically Disadvantaged owner(s) must have an overall understanding of, and managerial and technical competence, experience and Expertise, directly related to the firm's operations and work. The Socially and Economically Disadvantaged owner(s) must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to make independent decisions concerning the firm's daily operations, work, management, and policymaking.
  - (5) If federal, state and/or local laws, regulations or statutes require the owner(s) to have a particular license or other credential to own and/or control a certain type of firm, then the Socially and Economically Disadvantaged owner(s) must possess the required license or credential. If state law, County ordinance or other law regulations or statute does not require that the owner possess the license or credential, that the owner(s) lacks such license or credential is a factor, but is not dispositive, in determining whether the Socially and Economically Disadvantaged owner(s) actually controls the firm.



**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (6) A Socially and Economically Disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the owner from devoting sufficient time and attention to the affairs of the firm to manage and control its day to day activities.

(d) Only an independent firm may be certified as a MBE or WBE. An independent firm is one whose viability does not depend on its relationship with another firm. Recognition of an applicant as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is independent and non-Affiliated. In determining whether an applicant is an independent business, the Director will:

- (1) Scrutinize relationships with non-Certified Firms in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.
- (2) Consider whether present or recent employer/employee relationships between the Socially and Economically Disadvantaged owner(s) of the applicant and non-Certified Firms or persons associated with non-Certified Firms compromise the applicant's independence.
- (3) Examine the applicant's relationships with non-Certified Firms to determine whether a pattern of exclusive or primary dealings with non-Certified Firm compromises the applicant's independence.
- (4) Consider the consistency of relationships between the applicant and non-Certified Firms with normal industry practice.

(e) An applicant shall be certified only for specific types of work in which the Socially and Economically Disadvantaged owner(s) has the ability and Expertise to manage and control the firm's operations and work.

(f) The County shall certify the eligibility of Joint Ventures involving MBEs or WBEs and non-Certified Firms.

(g) In lieu of conducting its own certifications, the Director by rule may accept formal certifications by other entities as meeting the requirements of the Program, if the Director determines that the certification standards of such entities are comparable to those of the County.

(h) The certification status of all MBEs and WBEs shall be reviewed periodically by the Office of ~~Contract Compliance~~ the Purchasing Agent. Failure of the firm to seek recertification by filing the necessary documentation with the Director as provided by rule may result in decertification.

(i) It is the responsibility of the Certified Firm to notify the Director of any change in its circumstances affecting its continued eligibility for the Program. Failure to do so may result in the firm's decertification.

(j) The Director shall decertify a firm that does not continuously meet the eligibility criteria.

(k) Decertification by another agency shall create a *prima facie* case for decertification by the County. The challenged firm shall have the burden of proving that its County certification should be maintained.

(l) A firm that has been denied certification or recertification or has been decertified may protest the denial or decertification as provided by rule.

(m) A firm found to be ineligible may not apply for certification for six (6) months after the effective date of the final decision.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(n) A third party may challenge the eligibility of an applicant for certification or a Certified Firm as provided by rule. Such challenges shall be signed and sworn by the individual challenging the eligibility of an applicant for certification or a certified form. The burden of proof shall rest with the complainant. Such challenges to eligibility shall be subject to an appeal. The director shall be the final arbiter of all challenges. The presumption that the challenged firm is eligible shall remain in effect until the County renders a final decision.

#### **Sec. 34-296. Annual aspirational goals.**

The Annual Aspirational Goals for the utilization of MBEs and WBEs on County construction contracts and subcontracts shall be 24 percent for MBEs and four percent for WBEs.

#### **Sec. 34-297. Project specific goals.**

The Director, in consultation with the User Department shall establish Project Specific Goals for construction Contracts based upon the availability of at least three MBEs and three WBEs to perform the anticipated subcontracting functions of the project and the County's utilization of MBEs and WBEs to date.

#### **Sec. 34-298. Counting MBE and WBE participation.**

(a) The entire amount of that portion of a contract that is performed by the MBEs or WBEs own forces shall be counted, including the cost of supplies and materials obtained by the MBE or WBE for the work of the contract, and supplies purchased or equipment leased by the MBE or WBE (except supplies and equipment the MBE or WBE purchases or leases from the prime Contractor or the prime Contractor's Affiliate).

(b) The entire amount of fees or commissions charged by a MBE or WBE for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, shall be counted, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.

(c) When a MBE or WBE performs as a participant in a Joint Venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the Joint Venture's contract that is performed by the MBE or WBE with its own forces and for which it is separately at risk, shall be counted.

(d) Only expenditures to a MBE or WBE that is performing a Commercially Useful Function shall be counted. To determine whether a MBE or WBE is performing a Commercially Useful Function, the County will evaluate the amount of work subcontracted, industry practices, whether the amount the MBE or WBE is to be paid under the contract is commensurate with the work it is actually performing and other relevant factors. To perform a Commercially Useful Function, the MBE or WBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself. A MBE or WBE does not perform a Commercially Useful Function if its role is limited to that of an extra participant in the contract through which funds are passed in order to obtain the appearance of MBE or WBE participation. If a MBE or WBE subcontracts a greater portion of the work of a contract than would be expected based on normal industry practice, it is presumed not to perform a Commercially Useful Function. When a MBE or WBE is presumed not to be performing a Commercially Useful Function, the Certified Firm may present evidence to rebut this presumption.

(e) One hundred percent of the cost of the materials or supplies obtained from a MBE or WBE Manufacturer or Regular Dealer shall be counted. One hundred percent of the fees or transportation charges for the delivery of materials or supplies required on a job site shall be counted only if the payment of such fees is a customary industry practice and are commensurate with fees customarily charged for similar services.

(f) If a firm ceases to be a certified during its performance on a contract, the dollar value of work performed under a contract with that firm after it has ceased to be certified shall not be counted.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

(g) In determining achievement of Project Specific Goals, the participation of a MBE or WBE shall not be counted until that amount has been paid to the MBE or WBE.

**Sec. 34-299. Contract pre-award compliance procedures.**

(a) For all solicitations, the bidder/proposer shall submit a Utilization Plan detailing all subcontractors from which the Contractor solicited bids or quotations, and if Project Specific Goals have been established, its achievement of the Goals or its Good Faith Efforts to do so. The Utilization Plan shall be due at the time the bid proposal is due.

(b) Any agreement between a Contractor and a MBE or WBE in which the Contractor requires that the MBE or WBE not provide subcontracting quotations to other Contractors is prohibited.

(c) Where the Contractor cannot achieve the Project Specific Goal(s), the Director will determine whether the Contractor has made Good Faith Efforts to meet the Goal(s). In making this determination, the Director will consider, at a minimum, the Contractor's efforts to:

- (1) Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and written notices) the interest of all MBEs and WBEs certified in the scopes of work of the contract. The Contractor shall provide interested MBEs and WBEs with timely, adequate information about the plans, specifications, and requirements of the contract to allow MBEs and WBEs to respond to the solicitation. The Contractor must follow up initial solicitations with interested MBEs and WBEs.
- (2) Select portions of the work to be performed by MBEs and WBEs in order to increase the likelihood that the Project Specific Goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE and WBE participation, even when the Contractor would otherwise prefer to perform these work items with its own forces. It is the Contractor's responsibility to make a portion of the work available to MBEs and WBEs and to select those portions of the work or material needs consistent with the availability MBEs and WBEs to facilitate their participation.
- (3) Negotiate in good faith with interested MBEs and WBEs. Evidence of such negotiation includes the names, addresses, and telephone numbers of MBEs and WBEs that were contacted; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and why agreements could not be reached with MBEs and WBEs. The Contractor may not reject MBEs and WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. That there may be some additional costs involved in finding and using MBEs and WBEs is not in itself sufficient reason for a Contractor's failure to meet the Project Specific Goals, as long as such costs are reasonable. The ability or desire of a Contractor to perform the work of a contract with its own organization does not relieve it of the responsibility to make Good Faith Efforts on all subcontractable scopes of work.
- (4) Make efforts to assist interested MBEs and WBEs in obtaining bonding, lines of credit, or insurance as required by the County or the prime Contractor, where appropriate.
- (5) Make efforts to assist interested MBEs and WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, where appropriate.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

- (6) Use the services of the Office of ~~Contract Compliance~~ the Purchasing Agent, available minority/women community organizations, minority/women contractors' groups, government sponsored minority/women business assistance offices and other appropriate organizations to provide assistance in the recruitment and placement of MBEs and WBEs.

(e) In determining whether a Contractor has made Good Faith Efforts, the performance of other Contractors in meeting the Project Specific Goals may be considered. For example, when the apparent successful Contractor fails to meet the Project Specific Goals but others meet it, it may be reasonably questioned whether, with additional reasonable efforts, the apparent successful Contractor could have met the Project Specific Goals. Similarly, if the apparent successful Contractor fails to meet the Project Specific Goals, but meets or exceeds the average MBE or WBE participation obtained by other Contractors, this may be evidence that the apparent successful Contractor made Good Faith Efforts.

(f) A signed letter of intent from each listed MBE or WBE, describing the work, materials, equipment or services to be performed or provided by the MBE or WBE and the agreed upon dollar value shall be due at the time of bid proposal or within three days after such submission.

(g) The Director shall timely review the Utilization Plan before award, including the scope of work and the letters of intent from MBEs and WBEs. The Director may request clarification in writing of items listed in the Utilization Plan, provided such clarification shall not include the opportunity to augment listed participation or Good Faith Efforts.

(h) If the Director determines that the Utilization Plan demonstrates that the Project Specific Goals have been achieved or Good Faith Efforts made, with the concurrence of the User Department, the Director and User Department shall recommend award to Purchasing Agent.

(i) If the Director finds that a Contractor did not make sufficient Good Faith Efforts, the Director shall communicate this finding to the User Department and recommend that the bid/proposal be rejected. A Contractor may protest this determination pursuant to the County's bid protest procedures.

#### **Sec. 34-300. Contract administration procedures.**

(a) Upon award of a contract by the County that includes Project Specific Goals, the Project Specific Goals become covenants of performance by the Contractors in favor of the County.

(b) The Contractor shall provide a listing of all subcontractors to be used in the performance of the contract, and detailed subcontractor information to the County with each request for payment submitted to the County or as otherwise directed by the County. The Director and the User Department shall monitor subcontractor participation during the course of the contract. The County shall have full and timely access to the Contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the Contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the Contractor's records by any officer or official of the County for any purpose.

(c) The Contractor cannot make changes to the Utilization Plan or substitute MBEs or WBEs named in the Utilization Plan without the prior written approval of the Director, Purchasing Agent and the User Department. Unauthorized changes or substitutions shall be a violation of this subdivision and a breach of contract, and may constitute grounds for rejection of the bid or proposal or cause termination of the executed contract for breach, the withholding of payment and/or subject the Contractor to contract penalties or other sanctions.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (1) All requests for changes or substitutions of a MBE or WBE Subcontractor(s) named in the Utilization Plan shall be made to the Director, Purchasing Agent and the User Department in writing, and shall clearly and fully set forth the basis for the request. A Contractor shall not substitute a MBE or WBE subcontractor or perform the work designated for a MBE or WBE subcontractor with its own forces unless and until the Director, Purchasing Agent and the User Department approve such substitution in writing. A Contractor shall not allow a substituted subcontractor to begin work until both the Director, Purchasing Agent and the User Department have approved the substitution.
- (2) The facts supporting the request must not have been known nor reasonably should have been known by either party before the submission of the Utilization Plan. Bid shopping is prohibited. The Contractor must negotiate with the MBE or WBE subcontractor to resolve the problem. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.
- (3) Substitutions of the subcontractor shall be permitted only on the following bases:
  - (i) Unavailability after receipt of reasonable notice to proceed.
  - (ii) Failure of performance.
  - (iii) Financial incapacity.
  - (iv) Refusal by the subcontractor to honor the bid or proposal price.
  - (v) Mistake of fact or law about the elements of the scope of work of a solicitation where agreement upon a reasonable price cannot be reached.
  - (vi) Failure of the subcontractor to meet insurance, licensing or bonding requirements; or
  - (vii) The subcontractor's withdrawal of its bid or proposal.
- (4) The County's final decision whether to permit or deny the proposed substitution, and the basis of any denial, shall be communicated to the parties in writing by the Director.
- (5) Where the Contractor has established the basis for the substitution to the satisfaction of the County, the Contractor shall make Good Faith Efforts to fulfill the Utilization Plan. The Contractor may seek the assistance of the Office of ~~Contract Compliance~~ the Purchasing Agent in obtaining a new MBE or WBE. If the Project Specific Goal(s) cannot be reached and Good Faith Efforts have been made, the Contractor may substitute with a non-Certified Firm.
- (6) If the County requires the substitution of a MBE or WBE subcontractor listed in the Utilization Plan, the Contractor shall undertake Good Faith Efforts to fulfill the Utilization Plan. The Contractor may seek the assistance of the Office of ~~Contract Compliance~~ the Purchasing Agent in obtaining a new MBE or WBE subcontractor. If the Goal(s) cannot be reached and Good Faith Efforts have been made, the Contractor may substitute with a non-Certified Firm.

(d) If a Contractor plans to hire a subcontractor on any scope of work that was not previously disclosed in the Utilization Plan, the Contractor shall obtain the approval of the Director to modify the Utilization Plan and must make Good Faith Efforts to ensure that MBES and WBEs have a fair opportunity to bid on the new scope of work.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(e) Changes to the scopes of work shall be documented by the User Department at the time they arise, to establish the reasons for the change and the effect on achievement of the MBE or WBE goal.

(f) Prior to contract closeout, the Director shall evaluate the Contractor's fulfillment of the contracted goals, taking into account all approved substitutions, terminations and changes to the contract's scope of work. If the County determines that Good Faith Efforts to meet the MBE or WBE commitments were not made, or that fraudulent misrepresentations have been made, or any other breach of the contract or violation of this subdivision, a remedy or sanction may be imposed, as provided in the contract.

#### **Sec. 34-301. Sanctions and penalties.**

(a) The following violations of this subdivision may result in a breach of contract:

- (1) Providing false or misleading information to the County in connection with submission of a bid, responses to requests for qualifications or proposals, Good Faith Efforts documentation, post-award compliance, or other Program operations.
- (2) Committing any other violations of this subdivision.

(b) A Contractor or subcontractor is subject to withholding of payments under the contract, termination of the contract for breach, contract penalties, or being barred or deemed non-responsive in future County solicitations and contracts as determined by the County's Purchasing Ordinance, if it is found to have:

- (1) Provided false or misleading information in connection with an application for certification or recertification or colluded with others to do so;
- (2) Provided false or misleading information in connection with the submission of a bid or proposal or documentation of Good Faith Efforts, post-award compliance, or other Program operations or colluded with others to do so;
- (3) Failed in bad faith to fulfill Project Specific Goals, thereby materially breaching the contract; or
- (4) Failed to comply in good faith with substantive provisions of this subdivision.

#### **Sec. 34-302. Interim program review and sunset.**

(a) The President and the Board of Commissioners shall receive quarterly and annual reports from the Director detailing the County's performance under the Interim Program.

(b) The President and the Board of Commissioners will review these reports, including the Annual Participation Goals and the County's progress towards meeting those Goals and eliminating discrimination in its contracting activities and marketplace.

(c) Commencing on this Chapter's effective date, the County will retain qualified experts to develop evidence to assist the County in evaluating whether it has a continuing compelling interest in remedying discrimination against MBEs and WBEs in its construction marketplace, and the permissible scope of any narrowly tailored remedies.

(d) On or before the sunset date of this Chapter, the County shall review the results of this evidence gathering, to determine whether it has a compelling interest in continuing narrowly tailored remedies to redress discrimination against MBEs or WBEs so that the County will not function as a passive participant in a discriminatory marketplace.

(e) This subdivision shall sunset on or before December 31, 2008.

**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

**Sec. 34-303. Effective date.**

This subdivision shall be effective upon 90 days after passage.

**DIVISION 9. RE-ENTRY EMPLOYMENT/BID INCENTIVE**

**Sec. 34-351. Re-entry employment committee.**

(a) The re-entry employment committee will work with nonprofits to find suitable former offenders to be candidates to work with private companies on county contracts. The re-entry employment committee will contain seven members consisting of:

- (1) A representative of the Cook County Bureau of Human Resources;
- (2) A representative of the Cook County Office of Capital Planning and Policy;
- (3) A representative of the President's Office of Employment Training;
- (4) A representative of the Office of ~~Contract Compliance~~ the Purchasing Agent;
- (5) A representative of a nonprofit organization whose mission is to reintegrate former Offenders into society;
- (6) Two representatives appointed by the President of the Cook County Board of Commissioners, one of whom shall be a representative of organized labor, and one who shall be a member of the Cook County Board of Commissioners.

(b) The County shall work with nonprofit organizations, approved by the Board of Commissioners, whose missions are to help formerly incarcerated individuals re-enter their communities and reduce recidivism. These nonprofits will work with the President's Office of Employment and Training to create pools of former offenders who can enroll in courses in State certified programs to learn trades, thereby enabling the Cook County Re-entry Employment Committee to recommend these former offenders to potential vendors seeking contracts with a value of \$100,000.00, for employment on the contracted project. Contractors will not be required to use former offenders recommended by the Cook County Re-entry Employment Committee, but will receive bid incentives if they choose to do so. The trades in which former offenders can be trained include, but are not limited to, all construction trades.

**Sec. 34-352. Bid incentive.**

(a) For any contracts advertised for bid after the effective date of this Ordinance having an estimated contract value of \$100,000.00 or more, and where not otherwise prohibited by federal, state or local law, the Purchasing Agent shall allocate to any qualified bidder the following bid incentive for utilization of Former Offenders in performance of the total hours performed under contract.

**TABLE INSET:**

Total Labor Hours Performed by Former Offenders	Bid Incentive
5--10 %	1/2 % of bid price
11--15 %	1 % of bid price

(b) The bid incentive shall be calculated and applied in accordance with the provisions of Section 34-353. The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

(c) For all construction projects with an estimated contract value of \$100,000.00 or more, advertised after the effective date of this Ordinance, the Purchasing Agent shall include the bid incentive provision in all such advertisements.

## **COMMISSIONERS continued**

### **PROPOSED ORDINANCE AMENDMENT continued**

#### **ITEM #5 cont'd**

(d) Bidders wishing to utilize former offenders in their contract may request that the Re-entry Employment Committee provide them a list of candidates from which to choose former offenders for inclusion as a part of their bid. If the bidder already employs former offenders or wishes to get potential candidates on their own, they may do so and include them in their bid with proof that the former offenders of their choosing have completed a certified training program in the trade that they will be performing. Any bids that include former offenders who were not recommended by the Re-entry Employment Committee must be reviewed and approved by the Committee to be eligible for bid incentives.

(e) All contractors using former offenders will submit a utilization plan with their bid.

#### **Sec. 34-353. Earned credits.**

(a) Upon the completion of a contract subject to this section, a contractor may apply to the Purchasing Agent ~~and/or the Director of the Office of Contract Compliance~~ for earned credits if the contractor met or exceeded his or her Former Offender utilization goals established in the contract. If the Purchasing Agent ~~and/or the Director of the Office of Contract Compliance~~ determines that the contractor has successfully met his or her Former Offender utilization goals, the Purchasing Agent shall issue an Earned Credit Certificate that evidences the amount of earned credits allocated to the contractor. The contractor may apply the earned credits as the bid incentive for any future construction project contract bid of equal or greater dollar value.

(b) The Earned Credit Certificate is valid for three years from the date of issuance and shall not be applied towards any future contract bid after the expiration of that period.

#### **Sec. 34-354. Contractor's records.**

(a) The contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the Office of Purchasing, ~~the Office of Contract Compliance~~, or the Using Department.

(b) Full access to the contractor's and subcontractors' records shall be granted to the Office of Purchasing Agent, ~~the Director of the Office of Contract Compliance~~, the Using Department, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of at least three years after final acceptance of the work.

#### **Sec. 34-355. Review of contract performance.**

(a) The ~~Director of the Office of Contract Compliance~~ Purchasing Agent shall review the contractor's efforts during the performance of the contract to achieve its employment of former offender commitments as stated in its utilization plan. If the contractor meets or exceeds its stated goals, it shall be presumed to be in compliance. Where the ~~Director of the Office of Contract Compliance~~ Purchasing Agent finds that the contractor has failed to achieve its stated goals or otherwise has failed to comply with the requirements of the division including, but not limited to, the failure to provide any documentation required by the ~~Director of the Office of Contract Compliance~~ Purchasing Agent, the failure to satisfactorily demonstrate good faith efforts, and/or a deviation without authorization from the compliance-related portions of the contract as originally approved, the ~~Director of the Office of Contract Compliance~~ Purchasing Agent shall report findings to the Contract Compliance Committee.

(b) The ~~Director of the Office of Contract Compliance~~ Purchasing Agent may establish such requirements for periodic contractor reporting on the fulfillment of its goals and its utilization of Protected Class Enterprises as the ~~Director of the Office of Contract Compliance~~ Purchasing Agent determines appropriate and necessary for effective enforcement of this division. A contractor also shall be required to provide the ~~Director of the Office of Contract Compliance~~ Purchasing Agent any additional requested compliance documentation within 14 days of such request.

(c) If the ~~Director of the Office of Contract Compliance~~ Purchasing Agent determines that the contractor has failed to comply with its contractual documents or any portion of this division, the ~~Director of Contract Compliance~~ Purchasing Agent will notify the contractor of such noncompliance and may take any of the following actions:



**COMMISSIONERS continued**

**PROPOSED ORDINANCE AMENDMENT continued**

**ITEM #5 cont'd**

- (1)

Instruct the Comptroller to withhold 50 percent of the current progress payment due the prime contractor.
- (2)

Withhold up to 100 percent of further progress payments until the contractor demonstrates that it is in compliance with the requirements of this division.
- (3)

Debar the contractor from future bids or offers until the contractor demonstrates that it is in compliance with the requirements of this division.

**Sec. 34-356. Rules.**

The Purchasing Agent ~~and/or the Director of the Office of Contract Compliance~~ is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this Ordinance.

**PROPOSED RESOLUTIONS**

**ITEM #6**

<b>WITHDRAWN</b>
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Submitting a Proposed Resolution sponsored by

ELIZABETH “LIZ” DOODY GORMAN, County Commissioner

**PROPOSED RESOLUTION**

**A RESOLUTION CONSOLIDATING VARIOUS GOVERNMENTAL OPERATIONS  
BY COMBINING THE OFFICE OF CONTRACT COMPLIANCE  
WITH THE OFFICE OF THE PURCHASING AGENT**

**WHEREAS**, in an effort to help resolve the FY 2008 budget crisis, a resolution consolidating certain government operations was introduced at the February 20, 2008 meeting of the Cook County Board of Commissioners; and

**WHEREAS**, during these tough economic times, the need to streamline County operations still exists as the Board of Commissioners prepares to address the FY 2009 budget; and

**WHEREAS**, the Purchasing Agent is the chief County official with the charge of procuring quality goods and services for Cook County agencies at the best market value, making certain that vendors comply with all of the requirements of the Procurement and Contracts Code and recommending to the County Board which vendors should be awarded contracts based on their bids and on meeting all the required criteria; and

**WHEREAS**, one of the major criterion in determining which vendors should be awarded contracts is compliance with the Minority and Women Owned Business Enterprises division of the Procurement and Contracts Code; and

**WHEREAS**, compliance with the County’s MBE/WBE ordinance is the only criterion, in the County’s contract procurement process, which is administered by a County department other than the Office of the Purchasing Agent; and

**WHEREAS**, the Purchasing Agent should have the responsibility of making certain that contracts are fulfilled appropriately and that vendors meet all of the requirements of the Procurement and Contracts Code; and

**WHEREAS**, it is redundant to have two departments with such similar responsibilities; and

**COMMISSIONERS continued**

**PROPOSED RESOLUTIONS continued**

**ITEM #6 cont'd**

**WHEREAS**, other large governmental bodies, such as the City of Chicago; Orange County, California; Hennepin County, Minnesota, throughout the United States, have only one department administering all of these functions; and

**WHEREAS**, it would be more cost efficient for the Office of Contract Compliance to be merged into the Office of the Purchasing Agent.

**NOW, THEREFORE, BE IT RESOLVED**, that the Office of Contract Compliance is hereby dissolved and the duties of said office shall be transferred to the Office of the Purchasing Agent; and

**BE IT FURTHER RESOLVED**, that the employees of the Office of Contract Compliance shall now report to the Purchasing Agent.

\* \* \* \* \*

**ITEM #7**

<b>APPROVED</b>
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Submitting a Proposed Resolution sponsored by

GREGG GOSLIN, County Commissioner

**PROPOSED RESOLUTION**

**INITIATING PERFORMANCE-BASED BUDGETING**

**WHEREAS**, governments across the board are continually being asked to do more with less and Government officials and taxpayers continue to demand that public programs be delivered effectively and efficiently; and

**WHEREAS**, utilizing performance measurements as a component of performance-based budgeting is an extremely effective tool in determining how a program is accomplishing its missions, goals and objectives by measuring the delivery of products, services or processes; and

**WHEREAS**, the Government Finance Officers Association (GFOA) and the National Advisory Council on State and Local Budgeting (NACSLB) recommend all governments use performance measurement as an important component of long-term strategic planning to identify financial and program results, assess past program performance and facilitate future program service and delivery; and

**WHEREAS**, to incorporate performance measures in the budgeting process we must develop indicators to evaluate and monitor programs and services and integrate them into the budget framework; and

**WHEREAS**, past Cook County budgets have gone as far as delineating each department's mission, goals, objectives and accomplishments, all important steps in developing performance measures; and

**WHEREAS**, the Chief Financial Officer in conjunction with the Budget Director and Chief Information Officer are already in the process of developing balanced evaluation techniques and performance measures necessary to convert to a performance-based budget.

**NOW, THEREFORE, BE IT RESOLVED**, that the Chief Financial Officer, in conjunction with the Budget Director and the Chief Information Officer, will prepare a report, by April 1, 2009, on the necessary modifications required to integrate performance-based budgeting at the County; and

**BE IT FURTHER RESOLVED**, that the report of April 1, 2009 will include a fiscal note in regard to the proposed budget and its modifications to integrate a performance-based budgeting system.

\* \* \* \* \*

**COMMISSIONERS continued**

**RESOLUTIONS continued**

**ITEM #8**

**REFERRED TO THE COMMITTEE ON THE LEGISLATION, INTERGOVERNMENTAL & VETERANS RELATIONS #297355, AS AMENDED**

Submitting a Proposed Resolution sponsored by

LARRY SUFFREDIN, County Commissioner

**PROPOSED RESOLUTION**

**WHEREAS**, many municipalities and taxing districts within Cook County, participate in over 300 Tax Increment Finance (“TIF”) “redevelopment project areas” under Section 4(a) of the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.41 et seq. (the “TIF Act”); and

**WHEREAS**, one such TIF, the Chicago Central Loop Tax Increment Finance Program Redevelopment Project Area (“TIF Area”) is set to expire on December 31, 2008; and

**WHEREAS**, under the Property Tax Extension Limitation Law of the State of Illinois, ~~35 ILCS 200/18-185 et seq.~~, the County, as a taxing district, is able to capture a “one-time benefit” of extending levies against the Recovered Tax Increment Value (RTIV) in the amount of ten million dollars (\$10,000,000) upon the expiration of the TIF Area; and

**WHEREAS**, the Cook County Board should consider what action is necessary and promulgate policies relating to RTIV monies available to the County upon the expiration of a TIF.

**NOW, THEREFORE, BE IT RESOLVED, BY THE COOK COUNTY BOARD OF COMMISSIONERS THAT:**

1. The Legislation, Intergovernmental & Veteran Relations Committee of the Cook County Board shall conduct a public hearing to determine what policies and actions the County Board should take with regard to expiring TIF Areas and monies available there from.
2. Such hearing shall be scheduled prior to December 17, 2008.

**CONSENT CALENDAR**

**ITEM #9**

**APPROVED**

Pursuant to Cook County Code Section 2-108(gg) Consent Calendar, the Secretary to the Board of Commissioners hereby transmits Resolutions for your consideration. The Consent Calendar Resolutions shall be published in the Post Board Action Agenda and Journal of Proceedings as prepared by the Clerk of the Board.

**CC ITEM #1**

Submitting a Resolution sponsored by

ANTHONY J. PERAICA, PETER N. SILVESTRI and LARRY SUFFREDIN, County Commissioners

Co-Sponsored by

TODD H. STROGER, PRESIDENT, WILLIAM M. BEAVERS, JERRY BUTLER, FORREST CLAYPOOL, EARLEAN COLLINS, JOHN P. DALEY, ELIZABETH “LIZ” DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO, JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, MIKE QUIGLEY, TIMOTHY O. SCHNEIDER, DEBORAH SIMS and ROBERT B. STEELE, County Commissioners

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #1 cont'd**

**RESOLUTION**

**IN MEMORY OF PAT NAPLES**

**WHEREAS**, Almighty God in His infinite wisdom has called Pascal “Pat” Naples home on October 31, 2008 at the age of 76; and

**WHEREAS**, Pat Naples was born on June 20, 1932, a son of Tom and Adeline Naples; and

**WHEREAS**, Pat was taught by his parents that if you give with one hand it will come back to you in both; and

**WHEREAS**, Pat grew up on a farm and devoted his life to helping, serving and loving others; and

**WHEREAS**, Pat attended Bradley University in Peoria, Illinois, where he was a member of the Sigma Chi Fraternity; and

**WHEREAS**, in Sigma Chi, Pat made lifelong friendships and learned the importance of self-sacrifice; and

**WHEREAS**, the Sigma Chi Fraternity now includes many additional members of the Naples family who share Pat’s love and desire to help others; and

**WHEREAS**, last year Pat received the honor of being inducted into Sigma Chi’s first ever Circle of Honor; and

**WHEREAS**, after graduating from Bradley University, Pat joined the United States Air Force, where he would be stationed in Germany as a Lieutenant; and

**WHEREAS**, Pat married his wife Leda on April 30, 1960 and together they would have three sons, Pascal “Pat” Jr., Tom, and Michael, and five grandchildren, Pascal “Pat” Naples, III, Melissa Naples, Tommy Naples, II, Allison Naples and the departed baby Nicholas Naples; and

**WHEREAS**, Pat returned to Melrose Park and worked with his family at Tom Naples Market, which was also known as the “Fruit stand”; and

**WHEREAS**, the Fruit stand was the destination for many school classes, Boy and Girl Scout and youth group trips over the years, where Pat would teach children how to make a happy pumpkin face and make them laugh and smile, earning the title “Pumpkin King”; and

**WHEREAS**, Pat’s idea for local restaurants and residents to come together on a Labor Day weekend and sell portions of their favorite dishes for a dollar gave birth to the very popular annual “Taste of Melrose Park”; and

**WHEREAS**, Pat was a hard working and dedicated public servant who felt that one had not lived until they had been in politics; and

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #1 cont'd**

**WHEREAS**, Pat's desire to bring people together and his inclusive nature earned him the respect of many in the political arena, including former Congressman Henry Hyde, who came to a fundraiser Pat held when running for Triton College Board; and

**WHEREAS**, Pat founded both the Melrose Park Youth Commission and the Proviso Area Retarded Children Advisory Board; and

**WHEREAS**, Pat has received numerous honors throughout his life, including being named Chairman of the Quincentennial Committee, Columbus Celebration by the Joint Civic Committee of Italian Americans (JCCIA) by Governor Jim Edgar and Vice President of the JCCIA, being elected Chairman of the Triton College School Board, serving as National Vice President of the Midwest District of the Italian American National Union, and serving as a member of Italian Sons and Daughters of America; and

**WHEREAS**, Pat Naples has received many awards over the years, including the Distinguished Service in Trusteeship Award by the American Association of Governing Boards of Universities and Colleges in Washington, D.C. (1982), Humanitarian of the Year by the Gregorian Educators of Illinois (1983), Italian American National Union Michelangelo Award as Man of the Year (1993), and most recently receiving a Special Recognition Award from Neapolitan Circle (2008); and

**WHEREAS**, Pat was a great family man who loved his wife, Leda, and his children, and taught them about the importance of hard work and public service.

**NOW, THEREFORE, BE IT RESOLVED**, that the President and Cook County Board of Commissioners does hereby offer condolences to the Naples family on their loss of this wonderful man, and recognizes him and his family for a lifetime of honorable service to our community; and

**BE IT FURTHER RESOLVED**, that suitable copies of this Resolution be presented to the Naples family in honor of Pat and all that he did throughout his life to make our community a better place.

\* \* \* \* \*

**CC ITEM #2**

Submitting a Resolution sponsored by

JOHN P. DALEY, County Commissioner and TODD H. STROGER President,  
Cook County Board of Commissioners

Co-Sponsored by

WILLIAM M. BEAVERS, JERRY BUTLER, FORREST CLAYPOOL, EARLEAN COLLINS,  
ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO,  
JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA,  
MIKE QUIGLEY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS,  
ROBERT B. STEELE and LARRY SUFFREDIN, County Commissioners

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #2 cont'd**

**RESOLUTION**

**WHEREAS**, on the 5th day of November, 2008, Gene Lee celebrated the occasion of his 60th birthday; and

**WHEREAS**, Gene Lee is a highly regarded leader in Chicago's Asian-American community, and is known for his involvement in many civic and charitable endeavors; and

**WHEREAS**, Gene Lee has worked for many years in the highest levels of municipal government, serving as a senior adviser on the staff of Mayor Richard M. Daley; and

**WHEREAS**, Gene Lee was honored at a special surprise gathering of over 200 of his closest friends and family members, at Furama Restaurant in Chicago's world famous Chinatown district, to celebrate his 60th birthday; and

**WHEREAS**, this joyous celebration of those who know Gene best included an affectionate tribute to him for his numerous achievements and success in both his personal and professional life.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of Cook County, that the Board does hereby extend its warmest birthday greetings and best wishes to Gene Lee and joins his many friends and loved ones in fond observance of his special day; and

**BE IT FURTHER RESOLVED**, that this text be spread upon the official proceedings of this Honorable Body, and a ceremonial copy of same be presented to Gene Lee to commemorate this joyous occasion.

\* \* \* \* \*

**CC ITEM #3**

Submitting a Resolution sponsored by

TODD H. STROGER, President, County Board of Commissioners

Co-Sponsored by

WILLIAM M. BEAVERS, JERRY BUTLER, FORREST CLAYPOOL, EARLEAN COLLINS, JOHN P. DALEY, GREGG GOSLIN, ROBERTO MALDONADO, JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA, MIKE QUIGLEY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS, ROBERT B. STEELE and LARRY SUFFREDIN, County Commissioners

**RESOLUTION**

**WHEREAS**, Almighty God in His infinite wisdom has called a highly accomplished man, Cirilo A. McSween, from our midst; and

**WHEREAS**, Mr. McSween was born in Panama on July 8, 1926; and

**WHEREAS**, Mr. McSween was a successful competitor on the Panama National Olympic Track and Field Team; and

**WHEREAS**, Mr. McSween earned a bachelor's degree in economics from the University of Illinois; and

**WHEREAS**, after graduation, shortly upon entering the field of life insurance sales, Mr. McSween shattered every record for African-Americans; he was the first to sell \$1 million worth of life insurance in one year, in one month, and later sold \$2 million worth of life insurance in one month; and

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #3 cont'd**

**WHEREAS**, Mr. McSween was the first to earn a life-time membership in the prestigious insurance society, The Million Dollar Roundtable; and

**WHEREAS**, Mr. McSween was active in the civil rights movement; he was a confidante of Reverend Dr. Martin Luther King, Jr. and was a board member and national treasurer of the Southern Christian Leadership Conference; and

**WHEREAS**, after Dr. King's death, Mr. McSween persisted in his civil rights work, and was named a board member and vice chairman of Operation PUSH; and

**WHEREAS**, while continuing to be an active participant in the civil rights movement, Mr. McSween became the owner/operator of a McDonald's restaurant, becoming the first entrepreneur to open a new business on Chicago's State Street Mall; and

**WHEREAS**, Mr. McSween received several awards from the McDonald's Corporation, including a Ronald McDonald Award for Exemplary Contribution in 1981 for fostering a positive image of McDonald's restaurants in the Chicago area, and a Golden Arch Award in 1984, the highest award presented to a McDonald's owner/operator by the McDonald's Corporation; and

**WHEREAS**, Mr. McSween served on the board of the Association of Chicagoland McDonald's Restaurants and served as president for an unprecedented number of terms on the Chicago Black McDonald's Owners/Operators Association; and

**WHEREAS**, Mr. McSween was inducted into the Chicago State University's Business Hall of Fame; and

**WHEREAS**, as a crowning achievement to his life, Mr. McSween served as the distinguished subject of an exhibit mounted at Chicago's DuSable Museum of African American History, entitled "McSween Meets King: A Civil Rights Story".

**NOW, THEREFORE, BE IT RESOLVED**, that the Cook County Board of Commissioners, on behalf of the more than five million residents of Cook County, does hereby express its deepest condolences and most heartfelt sympathy to the family as well as the many friends and loved ones of Cirilo A. McSween, and may a suitable copy of this Resolution be tendered herewith.

\* \* \* \* \*

**CC ITEM #4**

Submitting a Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, the United Neighborhood Organization was established by a group of community leaders and local priests in 1984; and

**WHEREAS**, the mission of the United Neighborhood Organization is to help the Latino community realize the American dream; and

**WHEREAS**, the United Neighborhood Organization's efforts have always been grounded in the belief that Hispanics can and must build a vital American community, creating success for their families through assimilation into the social fabric of United States society; and

**WHEREAS**, the United Neighborhood Organization has sought to build grassroots leadership within Chicago's Hispanic neighborhoods to organize for power and address local issues such as prevalent street violence and overcrowding in schools; and

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #4 cont'd**

**WHEREAS**, the United Neighborhood Organization has challenged everyday residents to get involved and contribute to the advancement of the community; the United Neighborhood Organization partners with parishes and working-class neighborhoods such as South Chicago, Little Village and Back of the Yards; and

**WHEREAS**, the United Neighborhood Organization has carried its mission into an array of major campaigns and initiatives, including Chicago's school reform movement in the 1980s, a naturalization drive which has serviced over 65,000 new American citizens since the 1990s, and the establishment of the United Neighborhood Organization Charter School Network in 2004; and

**WHEREAS**, the United Neighborhood Organization has maximized its grassroots presence through partnerships with a variety of government and non-profit agencies, seeking to promote new community services, upcoming events and enrollment into available programs; these partners include the Chicago Department of Housing, the Illinois Department of Public Health – Office of Women's Health, the Illinois Department of Human Services, the Illinois Department of Commerce and Economic Opportunity, the Chicago Public Schools – Renaissance 2010 and the Susan G. Komen Breast Cancer Foundation.

**NOW, THEREFORE, BE IT RESOLVED**, that the Cook County Board of Commissioners, on behalf of the more than five million residents of Cook County, does hereby express its deep gratitude to the United Neighborhood Organization for its work in helping the Latino community realize the American dream, and may a suitable copy of this Resolution be tendered to the United Neighborhood Organization.

\* \* \* \* \*

**CC ITEM #5**

Submitting a Resolution sponsored by

LARRY SUFFREDIN, FORREST CLAYPOOL and MIKE QUIGLEY, County Commissioners

Co-Sponsored by

TODD H. STROGER, PRESIDENT, WILLIAM M. BEAVERS, JERRY BUTLER, EARLEAN COLLINS, JOHN P. DALEY, ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO, JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS and ROBERT B. STEELE, County Commissioners

**RESOLUTION**

**IN MEMORY OF JOANNE H. ALTER**

**WHEREAS**, Joanne H. Alter, a Glencoe native and Chicago resident, after a long battle against cancer, died on November 9, 2008 at the age of 81 years old; and

**WHEREAS**, Mrs. Alter, the first female Democrat to be elected to a countywide office in Cook County as a commissioner of the Metropolitan Water Reclamation District, will long be remembered as a woman who was "an early voice for the environment and longtime supporter of progressive politics"; and

**WHEREAS**, Mrs. Alter, who had an early interest in politics and an unwavering commitment to strive for what she believed, attended New Trier High School, and graduated cum laude from Mount Holyoke College in 1949, where she was once selected to escort Eleanor Roosevelt around campus; and

**WHEREAS**, Mrs. Alter, throughout her position as a three-term commissioner of the Metropolitan Water Reclamation District, strived for the dissolution of patronage and corruption, and advocated for water quality improvements and fiscal responsibility; and



**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #5 cont'd**

**WHEREAS**, Mrs. Alter, a supporter of the arts, was a member of the women's board of the Art Institute of Chicago, and launched the Junior Museum, a gallery for young people in 1964; and

**WHEREAS**, Mrs. Alter's commitment to women's involvement in politics was evident by her early membership in Young Democrats of Cook County, and her role in the creation of the Illinois Women's Political Caucus and Call for Action, a radio program that helped consumers and broadcast commentaries; and

**WHEREAS**, Mrs. Alter, an outstanding representative of women in our nation, was appointed as a delegate to the United Nations Conference on the Status of Women in Ghana in 1968 by President Lyndon B. Johnson, and served two terms on the Democratic National Committee; and

**WHEREAS**, Mrs. Alter was deeply committed to the success of society's youth, co-founding Working in the Schools ("WITS"), an organization which now provides tutors and mentors to more than 1,500 Chicago public school children; and

**WHEREAS**, Mrs. Alter's immense philanthropic work included founding Chicago's International Visitors Center to welcome foreign visitors to the city; and

**WHEREAS**, Mrs. Alter's many philanthropic achievements were recognized by awards, including the Jefferson Award, the Amistad Award and the National Women's Leadership Council Award; and

**WHEREAS**, Mrs. Alter was a loving and devoted wife, mother and grandmother, survived by her husband of 56 years, James M. Alter, her two sons, Jonathan Alter and Dr. Harrison Alter, her two daughters, Jamie Alter Lynton and Jennifer Warden, and her 11 grandchildren; and

**WHEREAS**, Joanne H. Alter will be deeply missed and forever treasured as a civic leader and public servant in Chicago and as an inspiration to the next generations.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of Cook County does hereby offer its deepest condolences and most heartfelt sympathy to the family and friends of Joanne H. Alter and joins them in sorrow at this time of loss; and

**BE IT FURTHER RESOLVED**, that a suitable copy of this Resolution be spread upon the official proceedings of this Honorable Body and that an official copy of same be tendered to the family of Joanne H. Alter so that her memory may be so honored and ever cherished.

\* \* \* \* \*

**CC ITEM #6**

Submitting a Resolution sponsored by

LARRY SUFFREDIN, County Commissioner

Co-Sponsored by

TODD H. STROGER, PRESIDENT, WILLIAM M. BEAVERS, JERRY BUTLER,  
FORREST CLAYPOOL, EARLEAN COLLINS, JOHN P. DALEY,  
ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO,  
JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA,  
MIKE QUIGLEY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS  
and ROBERT B. STEELE, County Commissioners

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #6 cont'd**

**RESOLUTION**

**HONORING MICHAEL PRINZI**

**WHEREAS**, Michael Prinzi faithfully and capably served the people and government of Cook County for many years; and

**WHEREAS**, Michael Prinzi graduated from the University of Chicago in 1974, and received his Juris Doctorate from the Northern Illinois University School of Law in 1978; and

**WHEREAS**, Michael Prinzi began his career with the Illinois Attorney General's Office in 1979, where he worked as a Special Assistant Attorney General and for the Illinois Department of Children and Family Services; and

**WHEREAS**, from 1982 to 1984, Michael Prinzi continued his work at the Illinois Attorney General's Office as an Assistant Attorney General assigned to the Revenue Litigation Division; and

**WHEREAS**, from 1984 to 1986, Michael Prinzi served as General Counsel for the Illinois Department of Children and Family Services; and

**WHEREAS**, Michael Prinzi, from 1986 to 1994 worked in General Practice at Bona and Prinzi; and

**WHEREAS**, Michael Prinzi, returned to a career in public service and loyally served the Cook County State's Attorney's Office for 14 years as an Assistant State's Attorney, Supervisor, and Division Chief; and

**WHEREAS**, throughout his time with the Cook County State's Attorney's Real Estate Tax Unit, Michael Prinzi provided valuable advice and counsel to the Cook County Assessor, Board of Review, and Treasurer, and represented County officials in the Circuit Court of Cook County, the Illinois Appellate Court, and the Supreme Court defending Cook County's property tax system; and

**WHEREAS**, as the Division Chief of the Transactions and Health Law/Municipal/Real Estate Taxation Division, Michael Prinzi used his expertise and experience to provide counsel to the elected officials of Cook County and to oversee a variety of areas of litigation; and

**WHEREAS**, Michael Prinzi currently lives in Northbrook, Illinois with his wife Peggy, and son Matthew; and

**WHEREAS**, upon his departure, Cook County owes a debt of gratitude to Michael Prinzi for his successful and dedicated public service and leadership.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioner of Cook County does hereby congratulate Michael Prinzi on his career in public service and wishes him happiness, good health, and success in his future endeavors; and

**BE IT FURTHER RESOLVED**, that a suitable copy of this Resolution be tendered to Michael Prinzi as a symbol of this auspicious occasion and let it also be spread upon the official proceedings of this Honorable Body.

\* \* \* \* \*

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #7**

Submitting a Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, Almighty God in His infinite wisdom has called an exceptionally giving and vital woman, Thelma Dahlberg, from our midst; and

**WHEREAS**, Mrs. Dahlberg was born on July 22, 1908 near Hoxie, Kansas; she graduated from Dakota Wesleyan University in Mitchell, South Dakota in 1928 and taught English for several years; and

**WHEREAS**, Mrs. Dahlberg earned a second Bachelor's degree in Theater Arts from the Goodman Theater and later taught English and drama at the Chicago Teachers College; and

**WHEREAS**, Thelma married Dr. Albert Dahlberg, an anthropologist and one of the founders of dental anthropology, on January 2, 1934; together they raised three children, Cordelia, Albert and James; and

**WHEREAS**, while she was a housewife, Mrs. Dahlberg always found time for volunteering; after her husband and family, being a super-volunteer was her burning passion; and

**WHEREAS**, in 1968, Mrs. Dahlberg received an invitation to reactivate the Cook County Women's Auxiliary Board; she quickly energized those around her, including volunteers and donors; and

**WHEREAS**, Mrs. Dahlberg proudly served as President of the Cook County Hospital Women's Auxiliary Board from 1981 to 1984, from 1985 to 1986 and from 1996 to 1999; and

**WHEREAS**, Mrs. Dahlberg developed church contacts and was recording secretary for the Board; she also served as a tour guide leader for the Hospital, and treated visitors and patients alike like family; and

**WHEREAS**, always active in hospital volunteer work, Mrs. Dahlberg was on the Auxiliary Committee of the University of Chicago Hospital and Clinics, of which she was chairman for two terms; and

**WHEREAS**, Mrs. Dahlberg was also on the Board of the Illinois Hospital Association Auxiliary State Board, of which she was Chairman from 1968 to 1969; she also chaired the Board of Illinois Hospital Association District One; and

**WHEREAS**, Mrs. Dahlberg continued to be active in various groups and women's clubs and was one of the founders of the Hyde Park Historical Society; she also helped to found the Historical Society in Franklin Grove; and

**WHEREAS**, Mrs. Dahlberg drove until the age of 97, walked a mile per day until the age of 98, and continued to be a volunteer until age 99; and

**WHEREAS**, Ms. Dahlberg will forever be cherished in the hearts of those who knew and loved her.

**NOW, THEREFORE, BE IT RESOLVED**, that the Cook County Board of Commissioners, on behalf of the more than five million residents of Cook County, does hereby express its deepest condolences and most heartfelt sympathy to the family as well as the many friends and loved ones of Thelma Dahlberg.

\* \* \* \* \*

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #8**

Submitting a Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, universities are the rich repositories of erudition and culture in our society, and Norman C. Francis has, as President of Xavier University of Louisiana for four remarkable decades, distinguished himself as a man of great spirit, vision and intellect; and

**WHEREAS**, Mr. Francis is to be lauded for being the longest sitting university president in the United States; and

**WHEREAS**, Mr. Francis is to be highly commended for his passionate dedication to the academic and spiritual development of youth; these vulnerable souls have a dedicated intellectual and spiritual steward in Mr. Francis; and

**WHEREAS**, under Mr. Francis' tenure as President of Xavier University of Louisiana, the University has more than tripled its enrollment, has broadened its curriculum, has expanded its campus and has received national attention for its award-winning academic initiatives; and

**WHEREAS**, Mr. Francis is to be recognized as well for the stupendous breadth of his civic leadership; and

**WHEREAS**, Mr. Francis has served as chairman or board member for numerous councils and foundations including the President's Council for the United Negro College Fund, the American Association of Higher Education, and the Carnegie Foundation for the Advancement of Teaching; and

**WHEREAS**, Mr. Francis has demonstrated his commitment to community both locally and nationally; in 2005 Louisiana Governor Kathleen Blanco appointed Mr. Francis to serve as Chairman of the Louisiana Recovery Authority, and for three years he helped to oversee the State's recovery following Hurricanes Katrina and Rita while leading the Xavier University of Louisiana's own speedy recovery and rebuilding; and

**WHEREAS**, Mr. Francis has been honored with numerous awards that showcase his dedication to strengthening our Nation; in 2006 he received the nation's highest civilian award – The Presidential Medal of Freedom; additionally, Mr. Francis has served in an advisory capacity to five U.S. presidents, including on the historic National Commission on Excellence in Education; and

**WHEREAS**, Mr. Francis has been honored by numerous universities and colleges; he is the recipient of thirty-nine honorary degrees, including a Doctor of Humane Letters from Johns Hopkins University, a Doctor of Humane Letters from New York Medical College, and a Doctor of Law from Harvard University; and

**WHEREAS**, Mr. Francis served bravely in the U.S. Army, Third Armored Division, from 1957 through 1959, honing skills that would no doubt serve him as an organizational and societal leader.

**NOW, THEREFORE, BE IT RESOLVED**, that I, Todd H. Stroger, on behalf of the more than five million residents of Cook County, do hereby recognize Norman C. Francis for four decades of inspired and dedicated leadership on behalf of Xavier University of Louisiana and our Nation, and may a suitable copy of this Resolution be tendered to him.

\* \* \* \* \*

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #9**

Submitting a Resolution sponsored by

LARRY SUFFREDIN, County Commissioner

Co-Sponsored by

TODD H. STROGER, PRESIDENT, WILLIAM M. BEAVERS, JERRY BUTLER,  
FORREST CLAYPOOL, EARLEAN COLLINS, JOHN P. DALEY,  
ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, ROBERTO MALDONADO,  
JOSEPH MARIO MORENO, JOAN PATRICIA MURPHY, ANTHONY J. PERAICA,  
MIKE QUIGLEY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS  
and ROBERT B. STEELE, County Commissioners

**RESOLUTION**

**IN MEMORY OF LAWRENCE B. DUMAS**

**WHEREAS**, Lawrence B. Dumas passed away on November 17, 2008; and

**WHEREAS**, Lawrence B. Dumas was a skilled researcher, diligent teacher and able administrator who worked at Northwestern University for nearly 40 years, ending his career there as provost; and

**WHEREAS**, Lawrence B. Dumas came to Northwestern University in 1970, was named an associate professor in 1975, and was named professor of biochemistry, molecular biology, and cell biology in 1980; and

**WHEREAS**, Lawrence B. Dumas was one of the founding members of the department of biochemistry, molecular biology and cell biology, and served as chair from 1985 to 1988; and

**WHEREAS**, Lawrence B. Dumas served as the dean of the Weinberg College of Arts and Sciences from 1988 to 1996; and

**WHEREAS**, Lawrence B. Dumas was named as provost of Northwestern University in 1996, where, as chief academic officer of the school, he focused on making Northwestern a top destination for both undergraduate and graduate students, and issued a five-year plan to do so, "The Highest Order of Excellence"; promoted interdisciplinary approaches, especially in the sciences, and increased support for the studies of nanoscience and the medical school; and

**WHEREAS**, Lawrence B. Dumas served as provost until 2007, when he stepped down for health reasons; and

**WHEREAS**, to honor the many contributions of Lawrence B. Dumas, Northwestern University is establishing the Lawrence B. Dumas Distinguished University Professorship; and

**WHEREAS**, Lawrence B. Dumas received his bachelor's degree with high honors in biochemistry from the Michigan State University Honors College in 1963, his master's degree in biochemistry from the University of Wisconsin in 1965, and his Ph.D. in biochemistry from the University of Wisconsin in 1968; and

**WHEREAS**, Lawrence B. Dumas was the recipient of a U.S. Public Health Service pre-doctoral fellowship at the University of Wisconsin and a postdoctoral fellowship at the California Institute of Technology; and

**WHEREAS**, Lawrence B. Dumas received the Weinberg College of Arts and Sciences Outstanding Teaching Award; and

**WHEREAS**, Lawrence B. Dumas received the John Boezi Award for Outstanding Molecular Biology Research from Michigan State University and the U.S. Public Service Career Development Award; and

**COMMISSIONERS continued**

**CONSENT CALENDAR continued**

**ITEM #9 cont'd**

**CC ITEM #9 cont'd**

**WHEREAS**, Lawrence B. Dumas was a member of the American Society of Biological Chemists, the American Society for Microbiology, the American Association for the Advancement of Science, and was a past member of medical advisory board of the Leukemia Research Foundation; and

**WHEREAS**, Lawrence B. Dumas is survived by his wife, Sally; his son, Robert; his daughter, Aimee; and three grandchildren; and

**WHEREAS**, Lawrence B. Dumas will be deeply missed and forever treasured by all who knew him and the people of Cook County owe a debt of gratitude to Lawrence B. Dumas for his outstanding contributions and the unparalleled leadership and thoughtful guidance he provided to Northwestern University.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of Cook County does hereby offer its deepest condolences and most heartfelt sympathy to the family and friends of Lawrence B. Dumas and joins them in sorrow at this time of loss; and

**BE IT FURTHER RESOLVED**, that a suitable copy of this Resolution be spread upon the official proceedings of this Honorable Body and that an official copy of same be tendered to the family of Lawrence B. Dumas so that his memory may be so honored and ever cherished.

**COMMITTEE REPORTS**

**ITEM #10**

**DETAILED INFORMATION REGARDING COMMITTEE REPORTS IS AVAILABLE FROM THE SECRETARY TO THE BOARD OF COMMISSIONERS**

Finance..... Meeting of October 22, 2008  
(recessed and reconvened on October 27, 2008, October 28, 2008 and November 7, 2008)

**APPROVED**

Finance..... Meeting of November 19, 2008

**APPROVED**

Zoning & Building..... Meeting of November 19, 2008

**APPROVED**

Roads & Bridges ..... Meeting of November 19, 2008

**APPROVED**

**OFFICE OF THE COUNTY AUDITOR**

**REPORTS**

**ITEM #11**

<b>RECEIVED &amp; FILED</b>
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Transmitting a Communication, dated October 24, 2008 from

LAURA A. BURMAN, C.P.A., Cook County Auditor

submitting herewith a copy of the financial report of the Fee Accounts and Petty Cash Fund, Office of the County Assessor, Cook County, Illinois, for the period ended November 30, 2006.

\* \* \* \* \*

**ITEM #12**

<b>RECEIVED &amp; FILED</b>
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Transmitting a Communication, dated October 24, 2008 from

LAURA A. BURMAN, C.P.A., Cook County Auditor

submitting herewith a copy of the financial report of the Social Service Fees And Restitution Trust Funds, Social Service Department, Cook County, Illinois, for the period ended November 30, 2006.

**BUREAU OF FINANCE**  
**OFFICE OF THE COUNTY COMPTROLLER**

**PROPOSED RESOLUTIONS**

**ITEM #13**

**APPROVED AS AMENDED**

Commissioner Sims, seconded by Commissioner Beavers, moved that the Proposed Resolution be approved and adopted.

Following discussion, Commissioner Schneider, seconded by Commissioner Goslin, moved to amend the Proposed Resolution. Commissioner Peraica called for a Roll Call, the vote of yeas and nays being as follows:

**ROLL CALL ON MOTION TO AMEND THE PROPOSED RESOLUTION**

Yeas: Commissioners Claypool, Collins, Daley, Goslin, Maldonado, Peraica, Quigley, Schneider, Silvestri and Sims - 10.

Nays: Commissioners Beavers, Butler and Suffredin - 3.

Present: Commissioner Steele - 1.

Absent: Commissioners Gorman, Moreno and Murphy - 3

**The motion to amend CARRIED.**

Returning to the main motion, Commissioner Sims, seconded by Commissioner Beavers, moved that the Proposed Resolution be approved and adopted, as amended. **The motion carried unanimously.**

Transmitting a Communication, dated November 6, 2008 from

DONNA L. DUNNINGS, Chief Financial Officer, Bureau of Finance  
and  
JOHN R. MORALES, CPA, County Comptroller

respectfully submitted for your sponsorship is a proposed resolution providing for the closing of accounts of the County of Cook under the Annual Appropriation Bill for the Fiscal Year 2008 and providing for the continuation of necessary payments of the County of Cook, Illinois pending passage of the annual Appropriation Bill for the Fiscal Year 2009.

The proposed resolution is substantially in the form of the continuing resolution in effect for the prior year approved by the Cook County Board of Commissioners on November 20, 2007. The proposed resolution has been reviewed and approved by the Cook County State's Attorney.

Submitting a Proposed Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**PROPOSED RESOLUTION**

**RESOLUTION providing for the closing of accounts of the County of Cook, Illinois under the Annual Appropriation Bill for the Fiscal Year 2008 and providing for the continuation of necessary payments of the County of Cook, Illinois pending passage of the Annual Appropriation Bill for the Fiscal Year 2009.**

**WHEREAS**, the County will close out its accounts and render an account and make settlements for the Annual Appropriation Bill for the Fiscal Year of 2008; and



**BUREAU OF FINANCE**  
**OFFICE OF THE COUNTY COMPTROLLER continued**

**PROPOSED RESOLUTIONS continued**

**ITEM #13 cont'd**

**WHEREAS**, prior to the adoption of an Annual Appropriation Bill for the Fiscal Year 2009 by the Board of Commissioners of the County (the "Board"), it will be necessary and in the best interests of the County to make expenditures and incur obligations to continue operations which are in addition to those expenditures which may be approved from time to time at regular Board meetings held prior to the adoption of the Annual Appropriation Bill for the Fiscal Year 2009; and

**WHEREAS**, subsequent to the closing of accounts of the Fiscal Year 2008 and prior to the passage of an Annual Appropriation Bill for the Fiscal Year 2009, the Cook County Board of Commissioners ("Board") wishes to authorize and direct the Comptroller of the County (the "Comptroller") and the Treasurer of the County (the "Treasurer") to advance funds and pay such necessary continuing expenditures.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**Section 1. Incorporation of Preambles.** The Board hereby finds that all of the recitals contained in the Preambles of this Resolution are true and correct and does incorporate them into this Resolution by reference.

**Section 2. End of the Current Fiscal Year.** The Comptroller is authorized and directed to close the accounts of Cook County pursuant to the Annual Appropriation Bill for the Fiscal Year 2008 as of November 30, 2008, at 12:00 o'clock midnight. All unexpended balances of said Appropriation Bill for the Fiscal Year 2008 shall be placed to the credit of each specific fund.

**Section 3. Establishment of Accounts.** Pending passage of the Annual Appropriation Bill for the Fiscal Year 2009 utilizing the classification of Standard Budgetary Accounts adopted by the County Board on March 6, 1944, as amended from time to time, the Comptroller is authorized and directed to set up such accounts as may be necessary to make payments as provided in this Resolution.

**Section 4. Advancement of Salaries.** Pending passage of the Annual Appropriation Bill for the Fiscal Year 2009, the Comptroller and the Treasurer are authorized and directed to make arrangements to advance and to continue to pay the salaries of the several officers and employees of the County, including authorized overtime; provided, however, that any salaries paid pursuant to this Resolution shall not exceed the salaries which were in effect as of November 30, 2008; and provided, further, that there shall be no increase in the number of positions within each job classification in effect on November 30, 2008; and provided, further, that no new employees shall be hired to fill vacancies in existing positions with the exception of Public Safety and Cook County Health and Hospitals System positions and emergency hires without completing the Budget and Management Services Request for Hire During Continuing Resolution form and approved by the President of the Board.

The Department of Budget and Management Services shall submit a Budget and Management Services Request for Hire During Continuing Resolution Report to the County Board at each Board Meeting, while this Resolution is in effect. This report shall not supersede the Cook County Bureau of Human Resources Hiring Procedures.

**Section 5. Payment of All Other Necessary Expenditures.** Pending passage of the Annual Appropriation Bill for the Fiscal Year 2009, the Comptroller and the Treasurer are authorized and directed to make arrangements to advance the payment of obligations of the County as follows:

1. Payment of the following continuing obligations of the County: utilities; insurance premiums and benefit/administration payments; payroll taxes; payments associated with payroll deductions; invoices for contracted pharmaceutical supplies; leases; intergovernmental transfers; self-insurance payments; and, court-ordered payments.

**BUREAU OF FINANCE**  
**OFFICE OF THE COUNTY COMPTROLLER continued**

**PROPOSED RESOLUTIONS continued**

**ITEM #13 cont'd**

2. Payment of purchases of materials, supplies and services involving expenditures in the amount of One Hundred Thousand Dollars (\$100,000.00) or less in accordance with County Ordinance and existing procedures. Provided, however, that all contracts for contractual services for Cook County, including the separately elected Officials, which involve an expenditure of \$25,000 or more, shall be approved by the Board of Commissioners and signed by the President of the Board, the County Purchasing Agent and the Comptroller. All contracts for professional and managerial services for Cook County, including the separately elected Officials, which involve an expenditure of less than \$25,000 shall be approved by the Purchasing Agent; however, all contracts for contractual services for Cook County, including the separately elected Officials, shall also require Board approval in circumstances where the aggregate of expenditures by a Department within the County, or any separately elected Official, to the same vendor for the same, or substantially the same contractual services within the same fiscal year equal a sum of \$25,000.00 or more.
3. Payments pursuant to grants and special purpose funds previously approved by the County.

**Section 6. Capital Improvement Items.** Unexpended Capital Improvement items appearing in the Capital Improvement Section of the Appropriation Bill of Cook County for Fiscal Year 2008 shall not be deemed to have lapsed at the end of Fiscal Year 2008. Funds specifically appropriated therein shall be available until the adoption and approval of the Annual Appropriation Bill for the Fiscal Year 2009.

**Section 7. Severability.** If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

**Section 8. Effective Date.** This Resolution shall be effective ~~immediately upon passage by this Board and approval by the President of the Cook County Board,~~ November 30, 2008 and remain in effect until the adoption and approval of the Annual Appropriation Bill for the Fiscal Year 2009.

\* \* \* \* \*

**ITEM #14**

<b>APPROVED</b>
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Transmitting a Communication, dated November 7, 2008 from

DONNA L. DUNNINGS, Chief Financial Officer, Bureau of Finance  
and  
JOHN R. MORALES, CPA, County Comptroller

hereby request approval of the following resolution to update the bank account authorized signatories for the Provident Hospital of Cook County Parking Lot Revenue and the Juvenile Temporary Detention Center Garage accounts at the Shore Bank.

Submitting a Proposed Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS,** the Cook County Board of Commissioners has the legal authority to authorize its departments and offices to open and maintain checking and savings accounts at various banks; and

**WHEREAS,** it is now necessary to update those persons who are authorized to be signatories on these checking and savings accounts.

**NOW, THEREFORE, BE IT RESOLVED,** that the checking and/or savings accounts at the Shore Bank for the following purposes, be updated for the General Fund.

**BUREAU OF FINANCE**  
**OFFICE OF THE COUNTY COMPTROLLER continued**

**RESOLUTIONS continued**

**ITEM #14 cont'd**

**BE IT FURTHER RESOLVED**, that the following are the names of those persons who are authorized to sign checks on these checking and/or savings accounts and that the signature of at least one (1) of these shall be required on each check:

1. Donna L. Dunnings
2. John R. Morales
3. Shakeel Qureshi

**BE IT FURTHER RESOLVED**, that the following person heretofore to be signatory shall be deleted:

1. Joseph M. Fratto

**BE IT FURTHER RESOLVED**, that the County Auditor be directed to audit the checking accounts of said institution at the close of each Fiscal Year or at anytime she sees fit, and to file report(s) thereon with the Cook County Board; and

**BE IT FURTHER RESOLVED**, that any funds on said checking or savings accounts for deposit with the County Treasurer shall be transmitted to the Cook County Comptroller with an itemization of collections and designation of the account in the Office of the Comptroller.

\* \* \* \* \*

**ITEM #15**

<b>APPROVED</b>
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Transmitting a Communication, dated November 7, 2008 from

DONNA L. DUNNINGS, Chief Financial Officer, Bureau of Finance  
and  
JOHN R. MORALES, CPA, County Comptroller

hereby request approval of the following resolution to update the bank account authorized signatories for the Cook County Charity Distribution Account at the Covenant Bank.

Submitting a Proposed Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, the Cook County Board of Commissioners has the legal authority to authorize its departments and offices to open and maintain checking and savings accounts at various banks; and

**WHEREAS**, it is now necessary to update those persons who are authorized to be signatories on these checking and savings accounts.

**NOW, THEREFORE, BE IT RESOLVED**, that the checking and/or savings accounts at the Covenant Bank for the following purposes, be updated for the General Fund.

**BE IT FURTHER RESOLVED**, that the following are the names of those persons who are authorized to sign checks on these checking and/or savings accounts and that the signatures of at least two (2) of these shall be required on each check:

1. Donna L. Dunnings
2. John R. Morales
3. Shakeel Qureshi

**BUREAU OF FINANCE**  
**OFFICE OF THE COUNTY COMPTROLLER continued**

**RESOLUTIONS continued**

**ITEM #15 cont'd**

**BE IT FURTHER RESOLVED**, that the following person heretofore to be signatory shall be deleted:

1. Joseph M. Fratto

**BE IT FURTHER RESOLVED**, that the County Auditor be directed to audit the checking accounts of said institution at the close of each Fiscal Year or at anytime she sees fit, and to file report(s) thereon with the Cook County Board; and

**BE IT FURTHER RESOLVED**, that any funds on said checking or savings accounts for deposit with the County Treasurer shall be transmitted to the Cook County Comptroller with an itemization of collections and designation of the account in the Office of the Comptroller.

**BUREAU OF FINANCE**  
**OFFICE OF THE PURCHASING AGENT**

**BID OPENING - COMMISSIONER SCHNEIDER**

**ITEM #16**

<b>REFERRED TO RESPECTIVE DEPARTMENTS FOR REVIEW AND CONSIDERATION</b>
--

Submitting for your consideration, bids which were opened under his supervision on Thursday, November 13, 2008 at 10:00 A.M., in the County Building, Chicago, Illinois.

**COUNTY PURCHASING AGENT**

**ITEM #17**

<b>APPROVED</b>
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Transmitting contracts and bonds executed by the contractors for approval and execution as requested by the Purchasing Agent.

**BUREAU OF ADMINISTRATION**

**HIGHWAY DEPARTMENT**

PERMISSION TO ADVERTISE

ITEM #18

APPROVED

Transmitting a Communication, dated October 17, 2008 from

RUPERT F. GRAHAM, JR., P.E., Superintendent of Highways

The following projects are presented to your Honorable Body for adoption and authorization for advertising for bids after all appropriate approvals of the plans, specifications, proposals and the estimates have been obtained for receipt of Contractor’s bids:

<u>LOCATION</u>	<u>TYPE</u>	<u>SECTION NUMBER</u>
167th Street, Central Avenue to Cicero Avenue (City of Oak Forest in County Board District #6)	Four (4) Lane Reconstruction	08-B5927-02-RP
14 Locations in Southwest Cook County (City of Burbank, the Villages of Alsip, Chicago Ridge, Oak Lawn and unincorporated Worth Township in County Board Districts #6 and 11)	Traffic Signal Modernization Contract and LED Retrofitting	08-TSCMC-07-TL

I respectfully request that your Honorable Body concur in this recommendation (600-600 Account).

PROPOSED REIMBURSEMENT AGREEMENT

ITEM #19

APPROVED

Submitting for your approval ONE (1) REIMBURSEMENT AGREEMENT RESOLUTION:

1. Reimbursement Agreement between the County of Cook and Nicor Gas Company
- Relocation of facilities within its easement, etc.
- Lee Road,
- Walters Avenue to Dundee Road
- in the Village of Northbrook in County Board District #14
- Section Number: 04-A7323-01-FP
- Centerline Mileage: 0.75 miles
- Fiscal Impact: \$149,860.93 from the Motor Fuel Tax Fund (600-600 Account)

PROPOSED IMPROVEMENT RESOLUTIONS

ITEM #20

APPROVED

Submitting for your approval TWO (2) IMPROVEMENT RESOLUTIONS:

1. Motor Fuel Tax Project
- Improvement Resolution
- Traffic Signal Modernization Contract and LED Retrofitting - 14 Locations Southwest
- in the City of Burbank, the Villages of Alsip, Chicago Ridge and Oak Lawn and in unincorporated
- Worth Township in County Board Districts #6 and #11
- Section: 08-TSCMC-07-TL
- Fiscal Impact: \$1,350,000.00 from the Motor Fuel Tax Fund (600-600 Account)

**BUREAU OF ADMINISTRATION**

**HIGHWAY DEPARTMENT continued**

**PROPOSED IMPROVEMENT RESOLUTIONS continued**

**ITEM #20 cont'd**

Traffic Signal Modernization

Central Avenue (CH W39) at 107th Street

Central Avenue (CH W39) at 103rd Street

Central Avenue (CH W39) at 99th Street

Central Avenue (CH W39) at 83rd Street

103rd Street (CH B45) at Lawler Avenue

103rd Street (CH B45) at 52nd Avenue/Laramie Avenue

87th Street (CH B42) at Oak Park Avenue

Ridgeland Avenue (CH W37) at St. Louis De Montfort School/89th Street

Ridgeland Avenue (CH B45) at 91st Street

LED Retrofitting

Central Avenue (CH W39) at 115th Street (CH B73)

Central Avenue (CH W39) at Southwest Highway

Central Avenue (CH W39) at 91st Street

Central Avenue (CH W39) at 87th Street

123rd Street (CH B75) at Kostner Avenue

2. Motor Fuel Tax Project
- Improvement Resolution
- 167th Street,
- Central Avenue to Cicero Avenue
- in the City of Oak Forest and unincorporated Bremen Township in County Board District #6
- Section: 08-B5927-02-RP
- Centerline Mileage: 1.01miles
- Fiscal Impact: \$8,000,000.00 from the Motor Fuel Tax Fund (600-600 Account)

**PROPOSED COMPLETION OF CONSTRUCTION RESOLUTION**

**ITEM #21**

APPROVED

Submitting for your approval THREE (3) COMPLETION OF CONSTRUCTION APPROVAL RESOLUTIONS:

1. Completion of Construction Approval Resolution
- Central Avenue Bridge over the Sanitary and Ship Canal
- in the Town of Cicero, the Village of Stickney and unincorporated Cook County in County Board District #16
- Section: 06-04624-05-BR
- Final Cost: \$4,858,925.34
2. Completion of Construction Approval Resolution
- Roselle Road,
- Hillcrest Boulevard to Euclid Avenue
- in the Villages of Palatine and Schaumburg in County Board Districts #14 and 15
- Section: 03-V6041-11-RP
- Final Cost: \$2,724,453.09
3. Completion of Construction Approval Resolution
- Wagner Road,
- East Lake Avenue to Willow Road
- in the Villages of Glenview and Northfield in County Board District #14
- Section: 07-W3643-01-RS
- Final Cost: \$409,105.23

**BUREAU OF ADMINISTRATION**  
**HIGHWAY DEPARTMENT continued**

**PROPOSED CHANGE IN PLANS AND EXTRA WORK**

**ITEM #22**

<b>REFERRED TO THE COMMITTEE ON ROADS &amp; BRIDGES #297356</b>
---

Submitting one (1) change in plans and extra work:

1. Section: 08-14131-90-RS. Lemont Township 2008 MFT Project - Various locations in County Board District #17. Adjustment of quantities and new items. \$197,555.22 (Deduction).

**BUREAU OF TECHNOLOGY**

**REQUEST TO AMEND PREVIOUSLY APPROVED CONTRACTS**

**ITEM #23**

**APPROVED**

**COMMISSIONER PERAICA VOTED "NO".**

**The following item was deferred at the November 5, 2008 Board Meeting:**

Transmitting a Communication, dated October 9, 2008 from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Cook County Board of Commissioners to amend the following item, which was previously approved at the September 17, 2008 Board Meeting. The transmittal reflects the (717/009-579 Account) and should be amended to reflect the (717/009-570 Account).

The amendment is indicated by the stricken and underscored language.

Transmitting a Communication from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Purchasing Agent to enter into a contract with Cisco Systems, Inc., Chicago, Illinois, for the purchase of network infrastructure hardware and software used to connect authorized locations to the Cook County Wide Area Network (WAN) to continue the Cook County Jail Campus Communications infrastructure build out.

Reason: The scope of work places data communications hardware in the remaining 10 jail divisions and the administrative/court building. Once completed, high speed data can be transmitted and received between buildings within the jail campus and the Cook County enterprise network. It will also support high speed wireless communications access on the campus.

Estimated Fiscal Impact: \$1,500,000.00. Contract period: October 1, 2008 through September 30, 2009. (717/009-~~579~~ 570 Account). Requisition No. 80090017.

Sufficient funds have been appropriated to cover this request.

Vendor has met the Minority and Women Business Enterprise Ordinance.

\* \* \* \* \*

**ITEM #24**

**APPROVED**

**COMMISSIONERS DALEY AND PERAICA VOTED "NO".**

**The following item was deferred at the November 5, 2008 Board Meeting:**

Transmitting a Communication, dated October 9, 2008 from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Cook County Board of Commissioners to amend the following item, which was previously approved at the September 17, 2008 Board Meeting. The transmittal reflects the (717/009-579 Account) and should be amended to reflect the (717/009-570 Account).

The amendment is indicated by the stricken and underscored language.



**BUREAU OF TECHNOLOGY continued**

**REQUEST TO AMEND PREVIOUSLY APPROVED CONTRACTS continued**

**ITEM #24 cont'd**

Transmitting a Communication from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Purchasing Agent to enter into a contract with Cisco Systems, Inc., Chicago, Illinois, for the purchase of network infrastructure hardware and software used to connect authorized locations to the Cook County Wide Area Network (WAN) for all the remaining Commissioners' District offices.

Reason: This will reduce telecommunications and computing operating costs. This additional capacity will also allow the ability to install public safety video surveillance cameras as required.

Estimated Fiscal Impact: \$238,450.00. Contract period: October 1, 2008 through September 30, 2009. (717/009-~~579~~ 570 Account). Requisition No. 80090018.

Sufficient funds have been appropriated to cover this request.

Vendor has met the Minority and Women Business Enterprise Ordinance.

\* \* \* \* \*

**ITEM #25**

**APPROVED**

**COMMISSIONER PERAICA VOTED "NO".**

**The following item was deferred at the November 5, 2008 Board Meeting:**

Transmitting a Communication, dated October 9, 2008 from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Cook County Board of Commissioners to amend the following item, which was previously approved at the September 17, 2008 Board Meeting. The transmittal reflects the (717/009-579 Account) and should be amended to reflect the (717/009-570 Account).

The amendment is indicated by the stricken and underscored language.

Transmitting a Communication from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Purchasing Agent to enter into a contract with Cisco Systems, Inc., Chicago, Illinois, for the purchase of network infrastructure hardware and software used to connect authorized locations to the Cook County Wide Area Network (WAN) to replenish depleted inventory of spare network equipment.

Reason: This equipment will be used to upgrade, install and in some cases replace older equipment at all regional courthouses, upgrade the Juvenile Temporary Detention Center's data hardware infrastructure and expand capacity to multiple locations that currently experience network congestion.

Estimated Fiscal Impact: \$2,500,000.00. Contract period: October 1, 2008 through September 30, 2009. (717/009-~~579~~ 570 Account). Requisition No. 80090019.

Sufficient funds have been appropriated to cover this request.

Vendor has met the Minority and Women Business Enterprise Ordinance.

**BUREAU OF TECHNOLOGY**

**CONTRACT ADDENDUM**

**ITEM #26**

<b>APPROVED</b>
Commissioner Maldonado, seconded by Commissioner Sims, moved that the County Purchasing Agent be authorized to extend the requested contract. Commissioner Peraica called for a Roll Call, the vote of yeas and nays being as follows:
<b>ROLL CALL ON MOTION TO APPROVE</b>
Yeas: Commissioners Beavers, Butler, Collins, Daley, Maldonado, Murphy, Sims and Steele - 8.
Nays: Commissioners Goslin, Peraica, Quigley, Schneider, Silvestri and Suffredin - 6.
Absent: Commissioners Claypool, Gorman and Moreno - 3.
<b>The motion to approve CARRIED.</b>

Transmitting a Communication, dated October 27, 2008 from

ANTONIO HYLTON, Chief Information Officer, Bureau of Technology

requesting authorization for the Purchasing Agent to extend for six (6) months, Contract No. 08-41-234. with Synch Solutions, Chicago, Illinois, for Project Shield Phase III, Section 3 of a state of the art interoperable, mobile, video and data network system for first responders for the Homeland Security Public Safety Initiative, as part of the Homeland Security grant.

Reason: This request is necessary to utilize the remaining funds for a previously approved contract. Approximately \$ 250,525.00 remains on this contract. The expiration date of the current contract was September 30, 2008.

Estimated Fiscal Impact: None. Contract extension: October 1, 2008 through March 31, 2009.

**BUREAU OF CAPITAL, PLANNING AND FACILITIES MANAGEMENT**  
**OFFICE OF CAPITAL PLANNING AND POLICY**

**PROPOSED CONTRACT**

**ITEM #27**

**REFERRED TO THE COMMITTEE ON CONSTRUCTION #297357**

Transmitting a Communication, dated October 27, 2008 from

BRUCE WASHINGTON, Director, Office of Capital Planning and Policy

transmitted herewith for your approval is a request for authorization to enter into a professional services contract with Taylor Made Design, Inc., Oak Park, Illinois, for design and construction administration services for the Juvenile Temporary Detention Center – Closed Circuit Television (JTDC-CCTV) Digital Video project.

Reason: This project consists of upgrading the existing CCTV system and adding approximately 200 high quality video cameras and digital recording systems at the Juvenile Temporary Detention Center to monitor the residential, school, recreation, gymnasiums, storage, and dock areas to increase the overall safety and security for all persons utilizing the facility.

Taylor Made Design, Inc. was selected from the Request for Qualifications (RFQ) process and exhibited an excellent understanding of the project requirements. They have experience in similar work and they have provided the lowest cost proposal.

This project received Board Authority in Fiscal Year 2007 and is categorized as a Security Enhancement Project.

Sufficient funds have been appropriated to cover this request.

Estimated Fiscal Impact: \$97,025.00. Bond Issue (20000 Account).

**PROPOSED CHANGE ORDER**

**ITEM #28**

**REFERRED TO THE COMMITTEE ON CONSTRUCTION #297358**

Transmitting a Communication, dated October 27, 2008 from

BRUCE WASHINGTON, Director, Office of Capital Planning and Policy

transmitted herewith for your approval is Change Order No. 1 in the amount of \$8,115.45 to the contract with Paul Borg Construction Company, Chicago, Illinois, Contractor for the Renovation Build-Out at Stroger Hospital of Cook County and the Administration Building (Bid Package 1) Project. It is respectfully requested that this Honorable Body approve this request.

Reason: This change order is due to an unforeseen condition and provides for asbestos abatement inside the ceiling of the cafeteria at the 1900 West Polk Street Administration Building.

Contract No. 08-53-138

Original Contract Sum:	\$958,000.00
Total Changes to-date:	0.00
Adjusted Contract to-date:	0.00
Amount of this Modification:	<u>8,115.45</u>
Adjusted Contract Sum:	\$966,115.45

Estimated Fiscal Impact: \$8,115.45. Bond Issue (28000 Account).

This project received Board Authority in Fiscal Year 2007 and is categorized as a Renovation Project.

Sufficient funds have been appropriated to cover this request.

**BUREAU OF HUMAN RESOURCES**

**PROPOSED RESOLUTIONS**

**ITEM #29**

**APPROVED AS AMENDED**

Commissioner Murphy, seconded by Commissioner Maldonado, moved that the Resolution be approved and adopted, as amended and that the Proper Officials be authorized to sign on behalf of Cook County. Commissioner Peraica called for a Roll Call, the vote of yeas and nays being as follows:

**ROLL CALL ON MOTION TO APPROVE, AS AMENDED**

Yeas: Commissioners Beavers, Butler, Claypool, Collins, Daley, Maldonado, Murphy, Quigley, Silvestri, Sims, Steele and Suffredin - 12.

Nays: Commissioners Goslin, Peraica and Schneider - 3.

Absent: Commissioners Gorman and Moreno - 2

**The motion to approve, as amended CARRIED and the Resolution was APPROVED AND ADOPTED, AS AMENDED.**

Transmitting a Communication from

JOSEPH SOVA, Chief, Bureau of Human Resources

transmitting herewith is a Collective Bargaining Agreement and Wage Resolution covering SEIU Local 73 and clerical staff/administrative assistant’s with P.O.E.T. for your consideration and approval at the November 19, 2008 Board Meeting.

**WAGES NEGOTIATED ARE AS FOLLOWS (12.75%):**

Effective December 1, 2004 (1.00%):	\$ 82,902.00
Effective December 1, 2005 (1.00%):	\$ 41,865.00
Effective June 1, 2006 (4 2.00%):	\$ 84,568.00
Effective December 1, 2006 (1.50%):	\$ 64,694.00
Effective June 1, 2007 (2.50%):	\$ 109,441.00
Effective December 1, 2007 (2.00%):	\$ 89,742.00
Effective June 1, 2008 (2.75%):	\$ 125,863.00
Bonus (\$500):	<u>\$ 64,000.00</u>
Total Estimated Cost:	\$ 663,075.00

Retroactive pay will be paid effective June 1, 2008.

Approval of this item would commit Fiscal Year 2008 funds.

Submitting a Proposed Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, a Collective Bargaining Agreement, general salary increases and adjustments for the period December 1, 2004 through November 30, 2008, have been negotiated between the County of Cook and the following Collective Bargaining Union:

SEIU Local 73; and clerical staff/administrative assistant’s with P.O.E.T.

**NOW, THEREFORE, BE IT RESOLVED**, that the Collective Bargaining Agreement and general salary increases and adjustments be approved by the Board of Commissioners of Cook County.

\* \* \* \* \*

**BUREAU OF HUMAN RESOURCES continued**

**PROPOSED RESOLUTIONS continued**

**ITEM #30**

**APPROVED**

Commissioner Murphy, seconded by Commissioner Maldonado, moved that the Resolution be approved and adopted and that the Proper Officials be authorized to sign on behalf of Cook County. Commissioner Peraica called for a Roll Call, the vote of yeas and nays being as follows:

**ROLL CALL ON MOTION TO APPROVE**

Yeas: Commissioners Beavers, Butler, Claypool, Collins, Daley, Maldonado, Murphy, Quigley, Silvestri, Sims, Steele and Suffredin - 12.

Nays: Commissioners Goslin, Peraica and Schneider - 3.

Absent: Commissioners Gorman and Moreno - 2

**The motion to approve CARRIED and the Resolution was APPROVED AND ADOPTED.**

Transmitting a Communication from

JOSEPH SOVA, Chief, Bureau of Human Resources

transmitting herewith is a Collective Bargaining Agreement and Wage Resolution covering SEIU Local 73 and clerical staff with Department of Environmental Control for your consideration and approval at the November 19, 2008 Board Meeting.

**WAGES NEGOTIATED ARE AS FOLLOWS (12.75%):**

Effective December 1, 2004 (1.00%):	\$ 1,240.00
Effective December 1, 2005 (1.00%):	\$ 626.00
Effective June 1, 2006 (2.00%):	\$ 1,265.00
Effective December 1, 2006 (1.50%):	\$ 968.00
Effective June 1, 2007 (2.50%):	\$ 1,637.00
Effective December 1, 2007 (2.00%):	\$ 1,342.00
Effective June 1, 2008 (2.75%):	\$ 1,882.00
Bonus (\$500):	<u>\$ 1,500.00</u>
Total Estimated Cost:	\$10,460.00

Retroactive pay will be paid effective December 1, 2007.

Approval of this item would commit Fiscal Year 2008 funds.

Submitting a Proposed Resolution sponsored by

TODD H. STROGER, President, Cook County Board of Commissioners

**RESOLUTION**

**WHEREAS**, a Collective Bargaining Agreement, general salary increases and adjustments for the period December 1, 2004 through November 30, 2008, have been negotiated between the County of Cook and the following Collective Bargaining Union:

SEIU Local 73; and clerical staff with the Department of Environmental Control.

**NOW, THEREFORE, BE IT RESOLVED**, that the Collective Bargaining Agreement and general salary increases and adjustments be approved by the Board of Commissioners of Cook County.

**OFFICE OF THE CHIEF JUDGE**  
**ADULT PROBATION DEPARTMENT**

**CONTRACT**

**ITEM #31**

**APPROVED AS AMENDED**

**The following item was deferred at the November 5, 2008 Board Meeting:**

Transmitting a Communication from

TIMOTHY C. EVANS, Chief Judge, Circuit Court of Cook County

requesting authorization for the Purchasing Agent to enter into a contract with McDermott Center, Chicago, Illinois, for substance abuse services for female probationers under the supervision of the Adult Probation Department.

Reason: McDermott Center was selected for participation in the program through a Request for Proposal (RFP) process completed this year.

Estimated Fiscal Impact: ~~\$318,944.00~~ \$154,782.00 [\$54,721.00 - (532-818 Account); \$100,061.00 - (532-272 Account)]; Grant funded amount: \$164,162.00 - (823-260 Account)]. Contract period: October 1, 2008 through September 30, 2009. Requisition Nos. 95324001 and 98230801.

Sufficient funds are available through the Adult Probation/Probation Service Fee Fund.

Vendor has met the Minority and Women Business Enterprise Ordinance.

**OFFICE OF THE CHIEF JUDGE**  
**JUVENILE TEMPORARY DETENTION CENTER**

**CONTRACT ADDENDA**

**ITEM #32**

**APPROVED AS AMENDED**

Transmitting a Communication from

~~TIMOTHY C. EVANS, Chief Judge, Circuit Court of Cook County~~

by

EARL L. DUNLAP, Transitional Administrator, Juvenile Temporary Detention Center

requesting authorization for the Purchasing Agent to increase by \$37,383.00 and extend for six (6) months, Contract No. 06-82-543 with Advanced Management Services Midwest, Inc., Palatine, Illinois, for the purchase of mattresses.

Board approved amount <del>11-02-06</del> <u>10-17-06</u> :	\$ 87,227.00
Increase requested:	<u>37,383.00</u>
Adjusted amount:	\$124,610.00

Reason: This request is necessary while contract specifications for the next bid process are developed for a new vandal-resistant product. The expiration date of the current contract was October ~~16~~ 17, 2008.

Estimated Fiscal Impact: \$37,383.00 (FY 2008: \$18,691.50; and FY 2009: \$18,691.50). Contract extension: October ~~17~~ 18, 2008 through April ~~16~~ 17, 2009. (569-330 Account).

Approval of this item would commit Fiscal Year 2008 and 2009 funds.

\* \* \* \* \*

OFFICE OF THE CHIEF JUDGE

JUVENILE TEMPORARY DETENTION CENTER continued

CONTRACT ADDENDA continued

ITEM #33

APPROVED AS AMENDED

COMMISSIONERS PERAICA AND SCHNEIDER VOTED "NO".

Transmitting a Communication from

~~TIMOTHY C. EVANS, Chief Judge, Circuit Court of Cook County~~  
by  
EARL L. DUNLAP, Transitional Administrator, Juvenile Temporary Detention Center

requesting authorization for the Purchasing Agent to increase by \$40,000.00 and extend for six (6) months, Contract No. 06-54-335 with Finer Foods, Inc., Chicago, Illinois, for the purchase of egg products.

Board approved amount 06-06-06:	\$57,118.00
Increase requested:	<u>40,000.00</u>
Adjusted amount:	\$97,118.00

Reason: This request is necessary while the contract is being rebid. The expiration date of the current contract is November 30, 2008.

Estimated Fiscal Impact: \$40,000.00. Contract extension: December 1, 2008 through May 31, 2009. (569-310 Account).

Approval of this item would commit Fiscal Year 2009 funds.

\* \* \* \* \*

ITEM #34

APPROVED AS AMENDED

COMMISSIONER PERAICA VOTED "NO".

Transmitting a Communication from

~~TIMOTHY C. EVANS, Chief Judge, Circuit Court of Cook County~~  
by  
EARL L. DUNLAP, Transitional Administrator, Juvenile Temporary Detention Center

requesting authorization for the Purchasing Agent to amend, increase by \$561,000.00 and extend for six (6) months, Contract No. 08-41-301 with Jani-King of Illinois, Schaumburg, Illinois, for janitorial services.

Board approved amount 05-07-08:	\$405,000.00
Increase requested:	<u>561,000.00</u>
Adjusted amount:	\$966,000.00

Reason: The contract language would be amended to remove monthly payment limitations, set forth in the contract “Scope of Services” section and the “Compensation and Payment Terms” section. This request is necessary while the Juvenile Temporary Detention Center hiring plan proceeds. The expiration date of the current contract is November 30, 2008.

Estimated Fiscal Impact: \$561,000.00. Contract extension: December 1, 2008 through May 31, 2009. (569-235 Account).

Approval of this item would commit Fiscal Year 2009 funds.

\* \* \* \* \*

OFFICE OF THE CHIEF JUDGE

JUVENILE TEMPORARY DETENTION CENTER continued

CONTRACT ADDENDA continued

ITEM #35

APPROVED AS AMENDED

COMMISSIONER PERAICA VOTED “NO”.

Transmitting a Communication from

~~TIMOTHY C. EVANS, Chief Judge, Circuit Court of Cook County~~  
by  
EARL L. DUNLAP, Transitional Administrator, Juvenile Temporary Detention Center

requesting authorization for the Purchasing Agent to increase by \$1,550,000.00 and extend for six (6) months, Contract No. 08-41-321 with The Wackenhut Corporation, Westchester, Illinois, for the purchase of security services including night watch, escorted movement and control services, direct residential supervision and emergency staffing.

Board approved amount 05-20-08:	\$1,862,848.00
Increase requested:	<u>1,550,000.00</u>
Adjusted amount:	\$3,412,848.00

Reason: This request is necessary while the Juvenile Temporary Detention Center hiring plan proceeds. The expiration date of the current contract is November 30, 2008.

Estimated Fiscal Impact: \$1,550,000.00. Contract extension: December 1, 2008 through May 31, 2009. (569-260 Account).

Approval of this item would commit Fiscal Year 2009 funds.



**OFFICE OF THE CLERK OF THE CIRCUIT COURT**

**PERMISSION TO ADVERTISE**

**ITEM #36**

**APPROVED AS AMENDED**

**COMMISSIONER PERAICA VOTED "NO".**

Transmitting a Communication from

DOROTHY BROWN, Clerk of the Circuit Court

requesting authorization for the Purchasing Agent to advertise for bids for the rental of shelving to be installed at the Clerk of the Circuit Court warehouse at 1120 East 89th Street, Chicago, Illinois.

Contract period: ~~January~~ February 1, 2009 through ~~December 31, 2009~~ January 31, 2010. (529-660 Account). Requisition No. 95291351.

Sufficient funds are available in the Clerk of the Circuit Court Document Storage Fund.

**CONTRACT**

**ITEM #37**

**APPROVED**

**COMMISSIONER PERAICA VOTED "NO".**

Transmitting a Communication from

DOROTHY BROWN, Clerk of the Circuit Court

requesting authorization for the Purchasing Agent to enter into a contract with Engineered Security Systems, Inc., Towaco, New Jersey, to provide preventative maintenance, software licensing and the monitoring of security services for the cashiering system located and installed throughout the various offices for the Clerk of the Circuit Court.

Reason: Engineered Security Systems, Inc. provides this customized hardware configuration integration with the software and cashiering systems throughout multiple facilities for the Office of the Clerk of the Circuit Court. Engineered Security Systems, Inc. is the sole proprietary vendor for this software.

Estimated Fiscal Impact: \$132,487.00 [\$63,637.00 - (528-441 Account); and \$68,850.00 - (528-630 Account). Contract period: January 1, 2009 through December 31, 2009. Requisition Nos. 95281150, 95281151 and 95281152.

Sufficient funds are available in the Circuit Court Automation Fund.

The Chief Information Officer has reviewed this item and concurs with this recommendation.

**PURCHASE ORDER ADDENDUM**

**ITEM #38**

**APPROVED**

**COMMISSIONER PERAICA VOTED "NO".**

Transmitting a Communication from

DOROTHY BROWN, Clerk of the Circuit Court

requesting authorization for the Purchasing Agent to increase by \$20,964.48 and extend for two (2) months, Purchase Order No. 160822 with Titan Security, Chicago, Illinois, for staffing of unarmed security services for the Clerk of the Circuit Court warehouse located at 1120 East 89th Street, Chicago, Illinois.

**OFFICE OF THE CLERK OF THE CIRCUIT COURT continued**

**PURCHASE ORDER ADDENDUM continued**

**ITEM #38 cont'd**

Original Purchase Order amount issued 02-13-08:	\$ 24,074.40
Previous increase approved issued 06-03-08:	63,625.20
This increase requested:	<u>20,964.48</u>
Adjusted amount:	\$108,664.08

Reason: This request is necessary to allow sufficient time for award and implementation of the new contract. The expiration date of the purchase order was October 31, 2008.

Estimated Fiscal Impact: \$20,964.48. Contract extension: November 1, 2008 through December 31, 2008. (529-260 Account).

Sufficient funds are available in the Clerk of the Circuit Court Document Storage Fund.

**OFFICE OF THE COUNTY CLERK**

**JOURNAL OF PROCEEDINGS**

**ITEM #39**

**REFERRED TO THE COMMITTEE ON RULES & ADMINISTRATION #297359**

**JOURNAL**

**(October 15, 2008)**

DAVID ORR, Cook County Clerk presented in printed form a record of the Journal of the Proceedings of the meeting held on Wednesday, October 15, 2008.

**JOURNALS OF PROCEEDINGS**

**ITEM #40**

**REFERRED TO THE COMMITTEE ON RULES & ADMINISTRATION #297360**

**JOURNAL**

**(October 22, 2008)**

DAVID ORR, Cook County Clerk presented in printed form a record of the Journal of the Proceedings of the special meeting held on Wednesday, October 22, 2008.

**CONTRACT**

**ITEM #41**

**APPROVED**  
**COMMISSIONER SIMS VOTED "NO".**

**The following item was deferred at the November 5, 2008 Board Meeting:**

Transmitting a Communication from

DAVID ORR, County Clerk  
by  
CLEM BALANOFF, Deputy County Clerk

requesting authorization for the Purchasing Agent to enter into a contract with Pickens-Kane Moving and Storage Company, Chicago, Illinois, for the moving of election equipment and materials for a total of six (6) Cook County elections in the years 2009, 2010 and 2011.

Reason: A Request for Proposal (RFP) was issued for these services via the Cook County website. Pickens-Kane has met the qualifications and has experience to perform the services requested. Pickens-Kane has demonstrated the technical skills to perform the complicated logistical requirements to 1) move secure voting equipment from up to 50 early voting sites at the same time on the closing day of early voting; 2) stage, pick up and deliver 2400 5'x 6', 800-pound voting supply carriers to 1700 polling places in less than a week; 3) pick up 2400 Election Judge packets and deliver on the same day within a short timeframe; 4) pick up and deliver election voting equipment and supplies to as many as 175 nursing homes 5 days prior to the election and pick and return secured packages prior to election day; 5) pick up and deliver 2400 last-minute "eligible voters" lists to 2400 precincts by 6:00 am on election day; 6) pick up equipment and supplies from 19 Remote Distribution Centers across the county and deliver to the Hawthorne Distribution Center at the end of the day on election day; 7) have stand-by crews ready at the Hawthorne Distribution Center to deploy replacement voting equipment on election day; and 8) pick up 2400 voting supply carriers from 1700 polling places for delivery back to the Hawthorne Distribution Center within a week after the election.

**OFFICE OF THE COUNTY CLERK continued**

**CONTRACT continued**

**ITEM #41 cont'd**

Estimated Fiscal Impact: \$3,676,824.00 [FY 2009 - \$984,248.00; FY 2010 - \$1,686,616.00; and FY 2011 - \$1,005,960.00]. Contract period: November 15, 2008 through May 1, 2011. (524-430 Account). Requisition Nos. 95240006, 10524004 and 11524001.

Sufficient funds are available in the County Clerk's Election Division Fund.

Vendor has met the Minority and Women Business Enterprise Ordinance.

OFFICE OF THE SHERIFF

MEMORANDUM OF UNDERSTANDING

ITEM #42

APPROVED AS AMENDED

Transmitting a Communication, dated October 24, 2008 from

THOMAS J. DART, Sheriff of Cook County  
by  
ALEXIS A. HERRERA, Chief Financial Officer

requesting authorization to enter into a Memorandum of Understanding (MOU) between the County of Cook and the City of Chicago to provide for the governance of the Public Safety Interoperable Communications Grant (PSIC). This MOU will provide capital funds to upgrade the County's radio system infrastructure. This upgrade will include increase capacity, and connectivity to the statewide Starcom Communication System. In addition the system will provide for a high performance data solution to connect City of Chicago and Cook County mobile units.

Once deployed, this system will make it possible for the City of Chicago, Cook County and Sub-Agencies to communicate on a unified system. This system is compliant with the United States Department of Homeland Security and the Federal Communications Commission guidelines.

As part of this MOU the County will be required to provide a \$2,024,430.00 match. The funds for this project were approved by the Cook County Board of Commissioners with the passage of the Fiscal Year 2008 Annual Appropriation Bill for the Cook County Sheriff's Office. The City of Chicago will be the lead agency partnering with Cook County on the project. The City of Chicago will also be required to provide a match of \$2,024,430.00.

This MOU was drafted by both the Cook County State's Attorney and the City's Corporation Counsel.

Estimated Fiscal Impact: \$2,024,430.00. (715/211-570 Account).

Sufficient funds have been appropriated to cover this request and will necessitate the issuance of capital bonds and order for payment to be made to the City of Chicago.

CONTRACT ADDENDA

ITEM #43

APPROVED

Transmitting a Communication, dated October 15, 2008 from

THOMAS J. DART, Sheriff of Cook County  
by  
KEVIN MCGUIRE, Director, Vehicle Services

requesting authorization for the Purchasing Agent to increase by \$90,000.00, Contract No. 07-84-239 with B&W Truck Repair, Inc., Chicago, Illinois, for maintenance and repair for buses and trucks, Zone 2.

Board approved amount 06-19-07:	\$211,600.00
Increase requested:	<u>90,000.00</u>
Adjusted amount:	\$301,600.00

Reason: Due to the age of our current fleet, the expense to maintain buses and trucks has exceeded our original estimates. This increase will allow for continued maintenance and repairs of our fleet until the end of the contract term. The expiration date of the current contract is June 19, 2009.

Estimated Fiscal Impact: \$90,000.00. (211-444 Account).

Approval of this item would commit Fiscal Year 2008 funds.

Vendor has met the Minority and Women Business Enterprise Ordinance.

\* \* \* \* \*

**OFFICE OF THE SHERIFF continued**

**CONTRACT ADDENDA continued**

**ITEM #44**

**APPROVED**

**COMMISSIONERS MALDONADO, PERAICA AND SUFFREDIN VOTED "NO".**

Transmitting a Communication from

THOMAS J. DART, Sheriff of Cook County

by

ALEXIS A. HERRERA, Chief Financial Officer

requesting authorization for the Purchasing Agent to amend and extend for three (3) months, Contract Number 04-54-618, with Aramark Correctional Services, Inc., Atlanta, Georgia. The vendor has agreed to an extension but has requested a price adjustment from .82 per meal to .96 per meal. The contractor is making this request based upon significant increases in food commodity prices over the last three years.

Reason: This amendment will allow for the continuation of food services at the Department of Corrections, Cook County Boot Camp, Department of Women’s Justice Services and the Department of Community Supervision and Intervention and for sufficient time to bid, evaluate and award a new contract. Due to the essential nature of this contract and its level of importance, the Sheriff’s Office conducted a top to bottom review of the Food Service Program. The results of this review necessitated revisions to our specifications to meet the current needs of the detainee populations. This has resulted in a delay in finalizing the specifications. No increase to the current contract is required. There are sufficient funds remaining in the contract to cover the price adjustment. Approximately \$4,676,739.00 remains on this contract.

Estimated Fiscal Impact: None. Contract extension: December 1, 2008 through February 28, 2009.

**OFFICE OF THE SHERIFF**

**DEPARTMENT OF COMMUNITY SUPERVISION AND INTERVENTION**

**PROPOSED CONTRACT ADDENDUM**

**ITEM #45**

**WITHDRAWN**

Transmitting a Communication, dated October 24, 2008 from

THOMAS J. DART, Sheriff of Cook County

by

DAVID S. DEVANE, Executive Director, Department of Community Supervision and Intervention

requesting authorization for the Purchasing Agent to increase by \$60,000.00 and extend from December 21, 2008 through January 31, 2009, Contract No. 05-73-562 with Human Resource Development Institute (HRDI), Chicago, Illinois, for Substance Abuse Treatment for the Department of Community Supervision and Intervention's Pre-Release Participant population.

Board approved amount 12-21-05:	\$718,335.00
Increase requested:	<u>60,000.00</u>
Adjusted amount:	\$778,335.00

Reason: The Department of Community Supervision and Intervention has issued a Request for Proposal (RFP) requesting a combination of programming services (substance abuse treatment and all of its auxiliary services) for both the Pre-Release and the Day Reporting Centers for the next contract period. The Department is requesting this extension to allow adequate time to review and select its future provider and, additionally, to have the current Pre-Release and Day Reporting contracts conclude on January 31, 2009. The expiration date of the current contract is December 20, 2008.

Estimated Fiscal Impact: \$60,000.00. Contract extension: December 21, 2008 through January 31, 2009. (236-298 Account).

Approval of this item would commit Fiscal Year 2009 funds.

Vendor has met the Minority and Women Business Enterprise Ordinance.

**MISCELLANEOUS**

**PRESENTATION OF PROPOSED BUDGET FOR THE YEAR 2009 - RTA  
ITEM #46**

<b>RECEIVED &amp; FILED</b>
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Transmitting a Communication, dated October 9, 2008 from

AUDREY MACLENNAN, Secretary to the Authority/FOIA Officer

this letter is to request the RTA be placed on the agenda at the Cook County Board Meeting of November 19, 2008 at 10:00 a.m. for the Fiscal Year 2009 budget presentation.

\* \* \* \* \*

The next regularly scheduled meeting is presently set for Wednesday, December 3, 2008.